

WHATCOM COUNTY HEARING EXAMINER

RE: Zoning Conditional Use Permit) CUP 2011-0007
Application for)
)
Mike Boxx) FINDINGS OF FACT,
) CONCLUSIONS OF LAW,
) AND DECISION

SUMMARY OF APPLICATION AND DECISION

Application: The Applicant is requesting a Zoning Conditional Use Permit to operate a Cottage Industry, composed of two parts: “weddings/receptions” and “special events” on a 37.63 acre parcel upon which the Applicant resides. The Applicant proposes to host 12 weddings per year with 150 participants per wedding/reception to be held on weekends during May through September. The Applicant also proposes to host two special events per year with 350 participants per event.

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: Mike Boxx

Site Location/Address: 6299 Northwest Road, Bellingham, Washington

Legal Description: Portion of the NW ¼ of the SW ¼ of Sec 15, T39N, R2E W. M.

Assessor’s Parcel Number(s): 390215 072208 0000

Zoning: Agriculture

Comprehensive Plan: Agriculture

Subarea: Cherry Point Ferndale

Total Acreage: 37.63 acres

Roads: Public

Water Supply: Private Well & Portable Hand Washing Stations

Sewage Disposal: On-Site Sewage System (OSS) and Porta-Potti's

Fire Protection: Whatcom County Fire District No. 7

Law Enforcement: Whatcom County Sheriff's Office

Public Schools: Ferndale School District No. 502

Topography: The site is generally level with some gently sloped areas.

Vegetation: Generally, the parcel is extensively under cultivation with crops, with the proposed development in a three acre grove of mature Douglas fir trees, interspersed with some mature deciduous birch trees, and a large mowed lawn area.

Adjacent Land Uses: North: R10A - Residential
East: R10A – Residential/Agricultural
South: AG & R10A – Residential/Agricultural
West: AG - Agricultural

Easements: Easement for ingress, egress and utilities as described in AF No. 1990701081.

Authorizing Codes, Policies, Plans, and Programs

Revised Code of Washington (RCW) Chapter 36.70

Revised Code of Washington (RCW) Chapter 58.17

Whatcom County Comprehensive Plan

Whatcom County Code, Title 2, Chapter 2.33 – Permit Review Procedures

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

Whatcom County Code, Title 14, Use of Natural Resources

Whatcom County Code Chapter 12.08, Development Standards

Whatcom County Code Chapter 15, Building Code/Fire Code

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

Whatcom County Code Chapter 16.16, Critical Areas

Whatcom County Code, Title 17 – Flood Damage Prevention Code

Whatcom County Code, Title 23 – Shoreline Management Program

Whatcom County Code Title 24, Health Regulations

Legal Notices: Posted – October 11, 2011
 Mailed – August 31 and October 6, 2011
 Published – August 31 and October 13, 2011

Hearing Date: October 26, 2011

Parties of Record:

Mike Boxx
6299 Northwest Road
Ferndale, WA 98248

Larry and Jesse Stoner
2091 Willow Court
Ferndale, WA 98248

George and Sally Jones
6106 Neevel Road
Ferndale, WA 98248

Les and Cheryl Larcom
1094 Piper Road
Ferndale, WA 98248

John and Lynnea Flarry
1253 Lattimore Road
Ferndale, WA 98248

Ahwren Ayers
6171 Northwest Drive
Ferndale, WA 98248

Thomas and Linda Dronen
6319 Northwest Drive
Ferndale, WA 98248

Sanja Barisic
Division of Engineering

Erin Osborn
Planning and Development Services

Exhibits:

1 Land Use Application
 1-1 Project Description

- 1-2 Fee Responsibility
- 1-3 Agent Authorization
- 1-4 PDS Address Instructions, with Property Owner labels
- 1-5 Statutory Warranty Deed and Easement
- 1-6 Determination of Completeness, June 22, 2011
- 1-7 Whatcom County Land Disturbance Application
- 1-8 Preliminary Stormwater Proposal
- 1-9 Preliminary Traffic Analysis
- 1-10 Revocable Encroachment Permit Application
- 1-11 On-Site Sewage Disposal Construction Permit, date of issue March 31, 1998
- 1-12 PDS Hearing Examiner Checklist, October 17, 2011
- 2 Staff Addendum to Application Narrative re: Special Events, October 5, 2011
- 3 Staff Report, dated October 14, 2011
- 4 Agency Comments
- 5 Site Plan Addendum
- 6 Revised Site Plan [handwritten note: To clarify path of travel for ingress/egress/parking and square footage of proposed use
- 7 Maps: vicinity, zoning, aerials
- 8 SEPA DNS, September 16, 2011, with attached Distribution List, Revised Checklist, dated July 28, 2011, Distribution List
- 9 SEPA Comment Letters
- 10 Public Comment letter from Ahwren Ayers
- 11 PDS Forms: Certificate of Mailing: SEPA Notice of Application July 14, 2011
- 12 Certificate of Mailing: Notice of Application and Optional DNS, August 31, 2011, Tear Sheet attached
- 13 Certificate of Mailing Notice of Public Hearing, October 6, 2011
- 14 Certificate of Posting Notice of Public Hearing, October 11, 2011
- 15 Legal Notice of Public Hearing, October 13, 2011
- 16 Comments on Staff Report and on Proposal from Ahwren Ayers, submitted October 24, 2011
- 17 Comments from Charles Harriman, stamped received October 24, 2011
- 18 Comments from John and Lynnea Flarry, October 24, 2011, re: recent staff report
- 19 Written Testimony, dated October 26, 2011, comments by Les Larcom on behalf of Les and Cheryl Lacom submitted at hearing

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 #3, dated October 14, 2011. The Hearing Examiner reviewed the Staff Report both before and after the hearing. The after hearing review was to determine if there were any factual statements in the Staff Report that the Hearing Examiner found to be inaccurate when compared with the record as a whole. The Applicant indicated that there were no factual inaccuracies in the Staff Report. The Hearing Examiner concurs. The factual matters set forth in the Staff Report are supported by the record as a whole and are adopted as Findings of Fact herein by this reference. A copy of the Staff Report is attached hereto and incorporated herein.

III.

Testimony at the public hearing established that events, mainly, over the last summer, which included amplified music and attendance in numbers similar to those requested by the Applicant as part of this Conditional Use Permit Application, unreasonably disturbed other property owners in the area, living 2,000-feet or more from the site proposed by the Applicant for the proposed Cottage Industry, allowing weddings and similar events with up to 150-participants per event and, two times a year, special events with up to 350-participants.

On more than one occasion, the Whatcom County Sheriff was called and responded to noise complaints. Noise was reduced, only to return to elevated, unacceptable levels after the Sheriff left.

The Applicant has admitted that a number of events, which included amplified music, created an unacceptable level of noise and has promised that similar problems will not occur in the future.

Staff has recommended approval of the Zoning Conditional Use Permit, subject to a number of conditions. The conditions regarding noise allow amplified music and require the Applicant to submit a Noise Reduction Plan for Planning and Development Services' approval, and to comply with the Class A Residential Source to Residential Receiving Property Standards of WAC 173-60-040. A condition also requires the Applicant to take additional available reasonable steps to reduce the noise emanating from the property to a level below the noise standards that are allowed by the Washington Administrative Code. The WAC Noise Standards for Class A Residential Source to Residential Receiving Property Standards do not exceed 55 dba at the boundary line of the property which is the noise source. The site proposed for the events is approximately 100-feet from the boundary line to the west and 100-feet from the boundary line to the south. These WAC Standards exempt noise from unamplified human voices from the Noise Standards. 55 dba allows a moderate to quiet level of noise which would be less than soft radio music within homes [see Exhibit #18]. It is highly unlikely any amplified music, combined with 150 guests and alcohol consumption, would come even close to meeting the 55 dba standards at the property boundaries, approximately 100-feet from the site and the gathering. Combining this with the poor record of the Applicant in regard to prior noise complaints, supports a Condition not allowing amplified music, except during the wedding ceremony itself, as part of this proposed event orientated Cottage Industry. A similar Condition not allowing amplified music was attached to a recently approved Event Center, which allowed far fewer participants at the weddings or similar events allowed.

IV.

In addition to noise, a list of other concerns was raised during the public comment period both on the SEPA Determination and permit application, itself, and at the public hearing. Staff has addressed each of these concerns in the Staff Report and has proposed numerous Conditions of Approval to address the legitimate concerns raised by other property owners in the area. After careful review and consideration, the Hearing Examiner concurs that the Technical Committee's findings [except for the allowance of amplified music], subject to the proposed conditions, adequately address and condition the permit to address the expressed concerns. The Hearing

Examiner has made minor changes in some of the Conditions of Approval to further minimize adverse affects on other property owners in the area.

V.

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 Technical Committee has reviewed the Zoning Conditional Use Permit application and has recommended approval, subject to conditions. A thorough Staff Report addressing each of the applicable criteria for allowing an Event Center as a Cottage Industry on this property has been laid out in the Staff Report, along with the Technical Committee's findings in regard to each requirement.

With the addition of a requirement not allowing amplified music, except during actual wedding ceremonies, and minor revisions to other Conditions of Approval to further minimize offsite impacts, the Hearing Examiner agrees with all of the Conclusions of Law reached by the Technical Committee set forth in the Staff Report, concludes that all relevant and applicable standards and regulations will be met, subject to these conditions, and will be granting a Zoning Conditional Use Permit to the Applicant. The Conclusions of Law set forth in the Staff Report, Exhibit No. 3, a copy of which is attached hereto, are hereby adopted by the Hearing Examiner, with minor modifications to the conditions, and are incorporated herein by this reference.

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

The Whatcom County Hearing Examiner hereby grants a Zoning Conditional Use Permit Approval to the Application of Mike Boxx, seeking approval of the operation of a Cottage Industry consisting of an Event Center, on a 37.63-acre parcel, Assessor's Parcel No. 390215 072208, addressed as 6299 Northwest Road, Ferndale, Washington, subject to the following conditions:

A. Planning Division

1. Permit Changes or Modifications: 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. Weddings/Receptions/Family Gatherings or Similar Events:

- A maximum of 12 such events are permitted per calendar year and are not limited to any specific time of year.
 - A maximum of 3 such events are permitted per month. No more than one event is permitted in any given week.
 - A maximum of 150 persons including guests & associated service staff are permitted on site at any given time.
 - Approved Hours for the actual events are 11 a.m. to 10 p.m. Pre-event preparation and post-event clean-up are allowed between the hours of 8 a.m. and 11 p.m. Event preparation and clean-up are allowed on days other than the actual event.
 - A maximum of 50 vehicles associated with Wedding/Reception events are permitted on site at any given time.
 - Required licenses or permits must be obtained if alcohol is served. A copy of the required permit shall be filed with the Whatcom County Sheriff and with the Whatcom County Hearing Examiner at least five days prior to the event date.
 - Notification shall be provided to the Whatcom County Sheriff's Office describing the Conditions of Approval associated with the Cottage Industry, including Applicant contact information.
3. Special Events:
- A maximum number of two Special Events are permitted per calendar year, and these events shall not coincide with a wedding event on the same weekend.
 - A maximum of 350 Special Event participants are permitted on site at any given time.
 - Approved Hours of Operation are noon to 10 p.m.
 - A maximum of 117 vehicles 50 vehicles associated with Special Events are permitted on site at any given time.
4. Employees: A maximum number of two employees are permitted to be engaged in operations of the Cottage Industry (this does not include various support staff that may be on the site associated with wedding events and business retreat events such as musicians, photographers, caterers).
5. Applicant Onsite During Events: The Applicant or his or her designee shall be on site at all times when any event is held. The Applicant shall be required to monitor and manage any event held to ensure compliance with Conditions of Approval.
6. Parking: Pursuant to WCC 20.80.500, adequate parking shall be established. An approved parking plan shall be submitted prior to the first event held under the approval of this permit. Parking shall be provided at a rate of one parking space for every three guests. Parking shall be installed in accordance with Federal and State regulations for ADA accessibility. In the event there is a conflict between the State and the Federal regulation(s), the State regulation(s) shall apply.
7. Traffic Mitigation Measures: The Applicant shall provide vehicle turn-outs on the approved Cottage Industry access route as required by Public Works Division of Engineering. In

addition, the Applicant shall provide a vehicle turn-out in reasonably close proximity to directional signage specified in IX (A) (18) of this Subsection, so that clients may pull over to orient themselves to the site, without blocking traffic.

For the duration of each wedding/reception or special event, a temporary barricade shall be erected where the approved Cottage Industry access road intersects with the Neevel Road ROW at the western property line of the subject parcel. The Applicant shall ensure compliance with this condition, and ensure that the temporary barricade effectively prevents unauthorized ingress or egress at that point.

8. Dust Control: Any gravel or dirt surface upon which vehicles travel shall be treated to effectively control dust generated from traffic at time of arrival to the site and at time of departure from the site. A short but specific plan regarding dust control shall be prepared by the Applicant and approved by Planning and Development Services Department prior to any additional events onsite. The plan shall describe in specificity the equipment to be used and the circumstances under which it will be used.
9. Phase 1: Temporary Tent: The temporary tent proposed to house ceremonies, presentations and seating areas associated with the Cottage Industry shall be installed on the 76-ft X 76-ft concrete pad, no earlier than the beginning of the 2nd week in the month of May, and taken down no later than by the end of the first week in the month of October. There shall be only one (1) temporary tent, as shown on the approved site plan.
10. Phase 2: Permanent Building to Replace Temporary Tent: A one story permanent building consisting of no more than 2,500 square feet in floor area may be constructed on the 76-ft X 76-ft concrete pad in place of the temporary tent, to house weddings/receptions/special events subject to issuance of building permit and any applicable State or local regulation regarding its occupancy or construction; provided that the construction of this building shall be completed within five years of CUP Approval; and further provided, that the temporary tent structure shall be removed, and no longer used as part of the Cottage Industry, unless otherwise approved by the Hearing Examiner.

An additional smaller temporary tent may be approved after building construction, subject to a Revision Application to Planning and Development Services, and approval by the Hearing Examiner, as an Administrative Revision to this condition.

11. Noise: The Applicant is required to ensure that sounds from related from weddings/receptions and special events held on the property comply with the Class A Residential Source to Residential Receiving Property Standards of WAC 173-60-040. The Applicant shall take additional, available reasonable steps to reduce the noise emanating from the property to a level below the Noise Standards allowed by the WAC. A Noise Mitigation Plan shall specifically state that no amplified music or amplified voice or instrument equipment is allowed except specifically during a wedding ceremony.

12. Noise Mitigation Plan: The Applicant shall file for record with the Whatcom County Planning & Development Services Department an approved Noise Mitigation Plan that is installed and effective prior to the first event held under this approval. A Noise Mitigation Plan shall specifically state that no amplified music or amplified voice or instrument equipment is allowed except specifically during a wedding ceremony.
13. Lighting: Pursuant to WCC 20.80.523, any lights shall be so arranged as to direct the light away from the adjoining property and the public road.
14. Glare: Parked vehicles shall be situated on the lot to prevent sun from reflecting glare visible to any neighboring properties or uses.
15. No Fireworks: The lighting of fireworks is prohibited in the context of the approved Cottage Industry.
16. Notification: The Applicant is required to notify the Whatcom County Sheriff's Office that the site is used for a Cottage Industry featuring weddings /receptions/special events prior to the first event held under this approval. The Applicant shall provide the Sheriff's Office with a record of conditions that apply to the approved Cottage Industry activities permitted on the site, and such notice shall also include a site plan. The Applicant shall notify the Whatcom County Sheriff's Office two days in advance of any Special Event being held on the property.
17. Refuse: The Applicant shall identify a method of refuse collection and disposal, and clearly identify location of refuse containers on an approved site plan, filed for record with Whatcom County Planning and Development Services Department, prior to the first event held under this approval.
18. Signage: The Applicant shall install one non-illuminated freestanding sign, not exceeding six feet in height to be located as close as reasonably possible to the entrance of his property from Piper Road. The sign shall show a vicinity map showing the route of access through the Farm to the event location. One additional non-illuminated 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 pursuant to WCC 20.36.161(3). A building permit is required prior to installation of a sign.
19. Buffer Requirements: An approved landscape site plan shall be filed on record with Whatcom County Planning and Development Services Department that shows a continuous coniferous tree line for approximately 560 feet along the southern property line, beginning at the most southwesterly corner to provide a buffer between the subject parcel and the nearest developed parcel in separate ownership. Trees shall be planted at intervals of 12 feet. *Installation of the tree line shall be installed within two years of conditional use approval, and maintained in thriving vigorous condition for the life of the conditional use permit.*
20. CUP Nontransferable: Pursuant to WCC 20.84.210, Conditional Use Permits shall be

nontransferable unless said transfer is further approved by the hearing examiner.

21. Right to Farm: Pursuant to WCC, Title 14, the owners of the property upon which this Conditional Use Permit Approval is granted shall sign a statement of acknowledgment containing a disclosure that pertains to the use of natural resources in Whatcom County. This disclosure shall be made on forms provided by Whatcom County, which shall then be recorded in the Whatcom County Auditor's Office.

B. Building Services Division

1. A building permit is required for this proposal.
2. Due to the scope of the proposed project, the Applicant must apply to the Building Official for a pre-application screening prior to building permit application submittal. At the Building Official's discretion, a pre-application meeting may be required.

C. Fire Marshal's Office

August 2, 2011 – Conditions to address 150 Building Occupants:

The Whatcom County Fire Marshal's Office has reviewed the above permit application for the addition of a 76-ft X 76-ft single story building with 150 occupants. The following conditions will apply when building permit is applied for:

1. Fire flow will be required. A minimum 2000 GPM @ not less than 20PSI shall be provided for 1 hour per International Fire Code. Hydrants, pumps, water supply, and pipes shall be designed by a Washington State Licensed Engineer. System shall be installed prior to any construction of the 76-ft X 76-ft single story building.
2. Fire sprinkler system required. Plans and specification shall be submitted to the Fire Marshal's Office for review and permitting. Fire sprinkler system is required because of the reduction in fire flow.
3. Fire alarm system required. Plans and specification shall be submitted to the Fire Marshal's Office for review and permitting.
4. Fire extinguisher size shall be 2A10BC and the locations shall be approved by the Fire Marshal.
5. Fire department access shall meet the requirements of the Whatcom County Development standards for roads.
6. The proposal shall comply with all applicable codes and ordinances adopted by Whatcom County. Any overlooked hazardous condition and/or violation of applicable code does not imply approval of such condition or violation.

October 7, 2011 –Conditions to address 350 Building Occupants:

1. Fire flow will be required. A minimum 2000 GPM @ not less than 20PSI shall be provided for one hour per International Fire Code. Hydrants, pumps, water supply, and pipes shall be designed by a Washington State Licensed Engineer. System shall be installed prior to any construction of the 76-ft X 76-ft single story building.
2. Fire sprinkler system required. Plans and specification shall be submitted to the Fire Marshal's Office for review and permitting. Fire sprinkler system is required because of the reduction in fire flow.
3. Fire alarm system required. Plans and specification shall be submitted to the Fire Marshal's Office for review and permitting.
4. Fire extinguisher size shall be 2A10BC and the locations shall be approved by the Fire Marshal.
5. Fire department access shall meet the requirements of the Whatcom County Development standards for roads.
6. The proposal shall comply with all applicable codes and ordinances adopted by Whatcom County. Any overlooked hazardous condition and/or violation of applicable code does not imply approval of such condition or violation.
7. The tent shall comply with Chapter 24 of the International Fire Code (IFC).
 - *****This is a Roof only no sides allowed.*****
 - ~2403.2 Tents and membrane structures shall not be erected, operated, or maintained for any purpose without first obtaining a permit and approval from the Fire Code Official.
 - ~2403.4 Operational and Construction permit required per section 105.6 and 105.7.
 - ~2403.5 Tents shall not be erected for a period of more than 180 days in a 12 month period on a single premises.
 - ~2403.6 A detailed site and floor plan shall be provided. Site plan shall show all parking, traffic flow, and fire department access. Floor plan shall indicate details of the means of egress, seating capacity, arrangements of the seats and location and type of heating and electrical equipment.
 - ~2403.7 Tent shall be inspected at regular intervals, but not less than two times per permit use period by the permittee, owner or agent to determine that the installation is maintained in accordance with this chapter. A report shall be provided to the Fire Marshal if the tent will stay erected for more than 30 days. Report shall consist of maintenance, anchors and fabric inspection.
 - ~2403.8 Fire Department access road shall be not less than 20 feet wide per Section 503.

~2403.8.2 Tents shall not be within 20 feet of lot lines, buildings, other tents, parked vehicles or internal combustion engines. For the purpose of determining required distance, support ropes and guy wires shall be considered part of the tent.

~2403.8.6 An unobstructed fire break of not less than 12 feet wide and free from ropes and other obstructions shall be maintained on all sides of all tents.

~2403.9 Tents and their appurtenances shall be adequately roped braced and anchored to withstand the elements of weather and prevent against collapsing. Documentation of structural stability shall be furnished to the fire marshal.

~2403.11 Seating in tents shall be in accordance with Chapter 10 (see Section 1028).

~2403.12.5 Exit aisle from seating area shall be not less than 44 inches of smooth surface.

~2403.12.5.1 The arrangement and maintenance of aisles shall be approved by the Fire Marshal.

~2403.12.7 Means of egress shall be illuminated with light having an intensity of not less than 1 foot-candle (11 lux) at floor level while the structure is occupied. Fixtures required for means of egress illumination shall be supplied from a separate circuit or source of power.

~2403.12.8 The required width of exits, aisles and passageways shall be maintained at all times to a public way. Guy wires, guy ropes and other support members shall not cross a means of egress at a height of less than 8 feet (2438 mm). The surface of means of egress shall be maintained in an approved manner.

Section 2404 additional items to be addressed:

- Flame Treatment
- Labeling
- Certification
- Combustible materials
- Smoking Prohibited
- Open flame Prohibited
- Fireworks Prohibited
- Spot and effect light
- Motion picture
- Clearance
- Portable fire extinguisher
- Fire protection equipment (May be required)
- Occupant load
- Heating and cooking equipment

- LP-gas
- Flammable and Combustible liquids
- Display of motor vehicles
- Separation of generators
- Standby personnel
- Combustible Vegetation
- Combustible waste material
- Adequate provisions to contact 911 shall be made available.

D. Public Works – Engineering Division

1. All development shall comply with Whatcom County Development Standards.
2. Scaled site plan in standard engineering scale (1-in=20-ft) shall be submitted with the building permit application clearly showing vehicle access to the property, traffic flow on the site, footprints of the proposed structures, parking area, width of driveway and proposed impervious square footage. Stormwater Report prepared by a professional engineer may be required based on the submitted Site Plan and total square footage of the impervious surface on the site (gravel is considered impervious as well as asphalt). This shall include buildings, driveways, parking area.
3. As per Chapter 2, Sec. 218 (B), the Applicant shall post a maintenance security bond with the Division of Engineering for any proposed drainage facilities. The security shall be for an amount of 10% of the engineer’s construction cost estimate or \$5000.00 (whichever is greater). The security shall be in effect for 2 years from the date of provisional acceptance of new drainage facilities.
4. Prior to Certificate of Occupancy for the required commercial building permit, an As-built Drawings-Record Drawing for the new drainage system/facility must be provided to the Engineering Division for permanent file record.

E. Health Department

Water: If employees or the public have access to water then public water is required.

Sewage: If plumbing is run to any building, an approved on-site sewage permit is required. Any alternate sewage disposal method will be required to be reviewed by WCHD to ensure adequate provisions for sewage disposal have been made.

Food Service: If food is to be prepared for the public, a food handling permit is required. Any caterer serving food to guests must have a valid permit from WCHD.

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 and 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 10th day of November 2011.

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

**WHATCOM COUNTY PLANNING AND DEVELOPMENT SERVICES
STAFF REPORT**

Date: October 14, 2011
Hearing Date: October 26, 2011

The application of Mike Boxx for a Zoning Conditional Use Permit	CUP2011-00011 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 approval to operate a cottage industry, composed of two parts: "weddings/receptions" and "special events" on a 37.63 acre parcel upon which the Applicant resides. The Applicant proposes to host 12 weddings per year with 150 participants per wedding/reception to be held on weekends during May through September. The Applicant also proposes to host two special events per year with 350 participants per event.

Recommendation: The Technical Review Committee recommends that the Whatcom County Hearing Examiner approve the Applicant's request for a conditional use permit to authorize a cottage industry featuring the use of his property as a venue to hold weddings, receptions, and special events, subject to requested conditions located in Section IX of this report.

II. PRELIMINARY INFORMATION

A. BACKGROUND INFORMATION

Applicant: Mike Boxx
6299 Northwest Road
Ferndale, WA 98248

Site Location/Address: 6299 Northwest Road

Legal Description: Portion of the Northwest Quarter of the Southwest Quarter of Section 15, Township 39 North, Range 2 East of the Willamette Meridian, (See the deed for a complete legal description.)

Assessor's Parcel Number(s): 390215 072208 0000

Zoning: Agriculture

Comprehensive Plan: Agriculture

Subarea: Cherry Point Ferndale

Total Acreage: 37.63 acres

<u>Roads:</u>	Public
<u>Water Supply:</u>	Private Well & Portable Hand Washing Stations
<u>Sewage Disposal:</u>	On-Site Sewage System (OSS) and Porta-Potti's
<u>Fire Protection:</u>	Whatcom County Fire District No. 7
<u>Law Enforcement:</u>	Whatcom County Sheriff's Office
<u>Public Schools:</u>	Ferndale School District # 502
<u>Topography:</u>	The site is generally level with some gently sloped areas.
<u>Vegetation:</u>	Generally, the parcel is extensively under cultivation with crops, with the proposed development in a three acre grove of mature Douglas fir trees, interspersed with some mature deciduous birch trees, and a large mowed lawn area.
<u>Adjacent Land Uses:</u>	North: R10A - Residential East: R10A – Residential/Agricultural South: AG & R10A – Residential/Agricultural West: AG - Agricultural
<u>Easements:</u>	Easement for ingress, egress and utilities as described in AF No. 1990701081.

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

1. Revised Code of Washington (RCW) Chapter 36.70
2. Revised Code of Washington (RCW) Chapter 58.17
3. Whatcom County Comprehensive Plan
4. Whatcom County Code, Title 2, Chapter 2.33 – Permit Review Procedures
5. Whatcom County Code, Title 20, Official Whatcom County Zoning Ordinance
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7. Whatcom County Code Chapter 12.08, Development Standards
8. Whatcom County Code Chapter 15, Building Code/Fire Code
9. State Environmental Policy Act (SEPA); Washington Administrative Code Chapter 197-11, Whatcom County Environmental Policy Administration Chapter 16.08
10. Whatcom County Code Chapter 16.16, Critical Areas
11. Whatcom County Code, Title 17 – Flood Damage Prevention Code
12. Whatcom County Code, Title 23 – Shoreline Management Program
13. Whatcom County Code Title 24, Health Regulations

III. APPLICATION PROPOSAL

On June 7, 2011, Planning & Development Services Department received an application for a conditional use permit (CUP2011-00007) for approval to operate a cottage industry to be completed in two phases, on a 37.63 acre parcel upon which the Applicant resides.

Weddings/Receptions/Special Events: In the *first phase* of the requested approval, the Applicant, Mike Boxx proposes to use one acre of his parcel to rent space to clients to hold 12 wedding/reception events per year with 150 participants per wedding/reception. Proposed days of operation are Fridays, Saturdays, and Sundays, starting on May 20th extending through and ending on September 30th, with proposed hours

of operation from Noon to 11 pm. The Applicant is proposing to install a temporary 60' X 60' open-sided tent on an existing 76' X 76' concrete pad to be put up at or around May 20th and removed on or about September 30th, corresponding with the beginning and end of the "wedding season". The temporary tent is proposed to be used as a covered area to provide a wedding ceremony/reception and seating area. In the *second phase*, the Applicant is requesting approval to construct a permanent 76' X 76' one story building on the existing concrete pad to be used in place of the temporary tent, with construction to be completed within five years of CUP approval.

During the course of application review, and in response to public comment, staff requested that the Applicant provide more information about the details of his request for approval to host "special events". Staff met with the Applicant and his Agent on October 4, 2011, at which time the Applicant provided an addendum to the application narrative, stating that he would like to hold two special events per year, (such as charity fundraisers) with a maximum of 350 participants per event per year. These events would take place on the one acre shown on the site plan submitted with the application as amended. Special events would utilize the temporary tent structure in the first phase of the requested approval, and utilize the permanent structure to be completed in second phase within five years of CUP approval.

The Applicant has requested approval to allow music and voice to be amplified at wedding/reception events and special events, and has proposed that this request be granted, subject to a noise mitigation plan. No food preparation is proposed, and no potable water will be provided to caterers. The application states that alcohol will be allowed in accordance with any applicable State or Local rules. Water used in the first phase of the proposed use is to spray down the concrete pad on which the temporary tent is proposed to be located. Water used in the second phase of the proposed use will be for cleaning purposes and restrooms.

The application project narrative states:

"The way in which the business will be run is that the people who wish to rent the space will be responsible for all aspects of their event. The property owner is simply supplying the location, however, because he lives on site he will be able to monitor what goes on. The clients will have to get a certificate of liability to be able to use the tent and they will also be responsible for getting the proper permits with the Fire Marshal's office."

Traffic & Parking: The entrance to the Mike Boxx property is from Piper Road via Northwest Road. The Applicant proposes that traffic will be routed from Piper Road by way of a 15 foot gravel driveway that heads south until about midpoint of the parcel where it then heads west down to the far end of the property to the site of the three acre forested grove and proposed one acre wedding/reception/special event site. The proposed access route and parking is clearly marked on the site plan submitted with the application, as amended.

For wedding/reception events, the Applicant has proposed 50 parking spaces plus ADA parking spots to accommodate the proposed 150 wedding participants. These parking spaces are shown on the site plan submitted with the application, as amended. The method of transportation to the site is proposed as passenger car or passenger vans. For the proposed special event portion of the cottage industry, 117 parking spots, plus ADA spots to accommodate 350 participants, are proposed.

IV. SITE DESCRIPTION

The subject property is located in the Ferndale Cherry Point subarea and is designated Agriculture in the County's Comprehensive Plan. The site is also zoned Agriculture. The subject parcel consists of 37.63 acres and is accessed by Piper Road east of Northwest Road. The site address is 6299 Northwest Road.

The site is generally level and extensively cultivated with a variety of both seasonal and perennial crops that are integral to the larger Boxx Family Farm properties in adjacent ownership. The proposed cottage

industry is situated on one acre of the 37.63 acre subject parcel. The proposed one acre site is partially surrounded by a three acre mature forested area with mown lawn and picnic area. The three acre forested grove and site of the proposed cottage industry, is also used in the Boxx Family Farm for a picnic ground and recreation for family gatherings, and is also used by farm employees on breaks.

The entire area proposed to be used in the cottage industry is shown on the site plan submitted as part of the application, and as amended by the Applicant, to clarify access route, direction of traffic flow, parking, and wedding, reception, and special event location.

Existing development on the site includes: a primary single family residence; a large barn; a manufactured home that is used for temporary farm worker housing; and gravel driveways that provide access to farm vehicles, farm customers, and are proposed to be utilized for the vehicular traffic generated by the cottage industry.

Properties surrounding the subject parcel to the west are zoned Agriculture. Properties to the north, south, and east, are zoned a mix of Rural and Agriculture, and are used for agriculture, and are developed with residential home sites.

V. PUBLIC NOTICE AND COMMENT

Requirements for public notice are contained in Chapter 2.33 WCC.

Notice of Application: On July 14, 2011, a Notice of Application was mailed to property owners whose boundaries lie within 1,000 feet of the subject property subject to 14 day comment period ending on July 28, 2011. On August 31, 2011 a second Notice of Application was mailed to property owners within 1000 feet of the subject property subject to a 15 day comment period ending on September 15, 2011. The second notice of application was sent because the first notice was not published in the Bellingham Herald, as requested, and also because the first notice did not include a description of the phased aspect of the proposal. The final Notice of Application for this proposal was published once on August 31, 2011. The fifteen (15) day comment period associated with this Notice ended on September 15, 2011.

Notice of Public Hearing: The Notice of Public Hearing for this application was published in a one-time newspaper publication in the Bellingham Herald.

Public Comment: During the public comment periods for the two Notices of Application, Whatcom County Planning & Development Services Department received written comments from eleven individuals. A summary of the comments received, and a brief response to those comments is listed below:

Comments that express concerns about the proposal:

- Increased traffic will create dust that poses a health risk
- Suggestion that road be paved, with low speed limit to control dust
- Existing concrete pad was installed without a permit
- Existing use without obtaining permits
- Existing parties are extremely loud and disturbing, fireworks, music etc.
- Use is not consistent with intended character of area
- Use is not compatible with agriculture
- Use is detrimental to the General Welfare
- Applicant has past history of code violations
- Illegal use of fireworks on the site scares animals and pets
- Scope of cottage industry exceeds allowable lot coverage
- Rental facility without owner/operator present not appropriate

- Use does not conform to definition of cottage industry
- Proposed use may be within ½ mile of active Bald Eagle nest
- Request made to deny proposed cottage industry
- Request made that noise stop at 10 pm
- Request made that only non-amplified music be allowed
- Request made to limit number of guests
- Concerns expressed about the use of alcohol impairing drivers
- Boxx should be made the “responsible party” at these events
- Using Neevel Road for egress?
- Request for information about source of water

Comments in Support:

- Party wished to support ways of generating income to support farming
- Applicant is a good neighbor
- Not so much opposed to the “events” but to the dust

Discussion: The Technical Review Committee reviewed the scope of potential impacts identified in public comment, met with Parties of Record on multiple occasions, and held telephone conversations with Parties, to discuss the proposed use. Staff asked Parties if they had ideas about how the proposal could be modified to be acceptable. One Party indicated that if the use was reduced in scale and intensity, then it might be less of an impact. Another Party indicated that the use at any scale as proposed or modified was unacceptable for many of the reasons briefly highlighted in the above list.

In response to public comment, additional information was requested from the Applicant to clarify the “Special Events” portion of the proposed cottage industry. In a meeting held with the Applicant and his Agent, an addendum to the proposal narrative was submitted and information was added to the site plan that better described the proposal to hold special events on the property. Staff sent a memorandum to members of the Technical Review Committee along with the Applicant’s addendum to the project narrative, for comments and additional recommended conditions for approval, if applicable.

Public comments pertaining to noise, dust, traffic, safety, and use of alcohol on the site, are addressed in Section VII of this report in the context of evaluating the proposal for conformance with approval criteria.

The Technical Review Committee met with the Current Planning Team to review the proposal and comments submitted by the public, and asked for input on proposed conditions that would mitigate potential impacts identified in public comments. The Technical Review Committee is recommending conditions of approval that address issues and concerns raised in public comment. These requested conditions are listed in Section IX of this report.

Finding: The Technical Review Committee finds that written public comments received during the comment periods have been adequately addressed in the above discussion, and in part, form the basis of conditions that the Technical Review Committee is recommending for approval of the conditional use permit.

VI. STATE ENVIRONMENTAL POLICY ACT (SEPA)

The State Environmental Policy Act (SEPA) requires applicants to disclose potential impacts to the environment unless the proposal is categorically exempt from SEPA threshold review.

The Whatcom County SEPA Official has reviewed the completed SEPA checklist submitted by the Applicant, and has made a determination that with proper mitigation and by compliance with applicable codes and requested conditions, no significant adverse impacts to the environment would be likely to occur as a result of approving the proposed zoning conditional use.

A Determination of Non-significance (DNS) was issued on September 16, 2011 after utilizing the Optional DNS process (WAC 197-11-355). The appeal period for this DNS ended on September 26, 2011. No Appeals to this determination were made.

A first Notice of Application utilizing the Optional DNS Process was sent to property owners within 1000 feet of the subject parcel on July 14, 2011, with a 14 day comment period ending on July 28, 2011. Due to unforeseen circumstances, the first Notice of Application was not published in the journal of record intended, and on August 31, 2011, a second Notice of Application and Notice of Optional DNS was published, and notices were sent to property owners within 1000 feet of the subject parcel.

The 15 day comment period for the second Notice of Application utilizing the Optional DNS Process ended on September 15, 2011. Two written comments were received regarding environmental review under SEPA. One comment was received from Washington State Department of Ecology requesting information about the source of water serving the site, and the other comment was from Washington State Department of Natural Resources indicating that there might be a Bald Eagle nest within ½ mile of the subject parcel. Staff responded accordingly by researching the matter and finding that the water used in the first phase of the proposed cottage industry, was for washing down the concrete slab after events, and that water sources according to the Applicant was a private well. Water would also be provided from the private well to serve the proposed permanent building, for restrooms, and cleaning, within five years of CUP approval. Staff will be notifying Ecology as to the details of the water source, as requested, prior to the Public Hearing. In response to Department of Natural Resources comment about the potential presence of a Bald Eagle nest, staff met with Critical Areas staff for review and comment. Critical Areas staff indicated that Bald Eagles are no longer protected, and the presence of a nest would not have bearing on review or approval of the subject application.

VII. CONSISTENCY WITH REGULATIONS, FINDINGS OF FACT

A. WCC Chapter 12.08 – Roads and Bridges

WCC Chapter 12.08 adopts and gives authorization for development standards for development within Whatcom County. Whatcom County shall establish uniform, comprehensive and distinct requirements which shall be applied to all developments. These requirements shall be established as “Whatcom County development standards” and shall exist to provide clear development guidelines for all construction activity within the county. These standards shall establish administrative and technical requirements for the implementation of land use regulations and shall provide the basis by which developments are evaluated to ensure compliance with county regulations.

Whatcom County Public Works Division of Engineering staff reviewed the proposal and submitted a memo dated August 4, 2011 with comments listed below and conditions of approval listed in Section IX of this document.

1. Northwest Road is a county maintained road classified as a Rural Major Collector. Piper Road is also a county maintained road classified as a Local Access road considered as a “primitive road” that is gravel, 10 ft. wide road and serves 5 homes.

Finding: The Technical Review Committee has determined that as conditioned the proposed use meets the requirements of WCC Chapter 12.08.

B. WCC Title 15 – Buildings & Construction

Building Code: WCC Title 15 adopts and amends the applicable building and fire codes. The Building Official is authorized to promulgate such rules, policies and/or procedures as deemed

necessary for the efficient operation of the permit process as administered by the department of building safety, designated in IBC Section 103.1, and hereby referred to as the Building Services Division of Whatcom County Planning and Development Services Department.

The Whatcom County Chief Plans Examiner submitted memos dated July 20, 2011, September 8, 2011 and on October 6, 2011 with comments listed below. Chief Plans Examiner conditions of approval for this proposal are listed in Section IX of this document. The Applicant shall comply with all conditions of the Chief Plans Examiner unless modified by the Chief Plans Examiner or appealed to the appropriate agency.

July 20, 2011 – Memo:

1. Due to the fact that no permanent structures are proposed at this time, the Plans Examiners office has no comments. To qualify as a permanent structure the tent would have to be up more than 180 days in a calendar year, as proposed it would not meet this requirement and would fall under the jurisdiction of the Fire Marshal's office. When or if permanent structures are proposed the Plans Examiners Office would have comments and requirements.

September 8, 2011 – Memo:

1. Scope of work now includes a 76' x 76' building on existing concrete slab.
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 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 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 2009 International Building Code (IBC); the 2009 International Fire Code (IFC); the 2009 International Mechanical Code (IMC); the 2009 International Fuel Gas Code (IFGC); the 2009 Uniform Plumbing Code (UPC); all applicable code referenced manuals and standards; all applicable Washington State Amendments to the above referenced codes; the 2009 Washington State Non-residential Energy Code (NREC) and Ventilation & Indoor Air Quality Code per 2009 IBC.
6. A Washington State Professional Engineer shall engineer the proposed building. The engineer shall perform a complete structural analysis for the proposed building(s).
7. The engineer shall provide analysis for any special loads such as those imposed by an automatic sprinkler system, mechanical equipment, concentrated loads, impact loads, cranes, etc. The engineer should also include any required anchorage of non-building structures (signs, tanks, storage racks, equipment, etc.) to resist seismic loads.
8. A Washington State registered architect is required to design and stamp plans for all "non-exempt" structure of 4,000 square feet or greater in size.--- A Washington State licensed architect will be required by the Building Official to prepare plans and construction documents. (IBC Section 106.1, RCW 18.08.410) Plans prepared by a WA State licensed architect must be stamped and signed by the architect. (RCW 18.08.410[9])

9. **(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
 - a. types of occupancy
 - b. type(s) of construction
 - c. allowable height and area justification
 - d. Occupant loads, egress path and travel distance, required exits and widths
 - e. non-separated or separated use, mixed occupancy
 - f. incidental and or accessory uses
 - g. fire protection systems
 - h. building design criteria
 - i. plumbing fixture counts
 - j. Mechanical equipment.
10. Geotechnical engineer may be required, per the request of the engineer of record or the building official.
11. A design professional of record (licensed architect or engineer of record) shall be designated on the permit submittal documents and drawings where appropriate. The design professional of record shall be responsible for reviewing and coordinating all submittal documents prepared by others, including deferred submittal items, for compatibility with the design of the building. (IBC Section 106.3.4)
12. Where Occupancy separations are required they shall be constructed as required per the current adopted edition of the International Building Code (IBC).
13. Exits shall meet the requirements of Chapter 10 of the International Building Code.
14. The proposal shall meet the barrier-free, handicap accessible requirements of the International Building Code, Chapters 10 & 11; IBC Appendix E; ICC/ANSI A117.1-03; applicable sections of the Washington State Amendments, per WAC 51-50. Accessibility design details shall be indicated on the plan drawings and submitted with the building permit.
15. Heating, cooling, ventilation and/or lighting (interior and exterior) of the building shall require compliance with the current adopted edition of the Washington State Nonresidential Energy Code (NREC) and Ventilation and Indoor Air Quality Code per 2009 IBC.
16. The proposal shall comply with all applicable codes and ordinances adopted by Whatcom County.
17. Sprinkler system and fire alarm system submittals when required shall be applied for at the same time as the building permit, unless otherwise approved by the Fire Marshal.
18. Required plans for this project shall include but not be limited to. (Suggested scales)
 - a. Site plan (1/10th scale)
 - b. Foundation plan (1/4" =1' scale)
 - c. Floor plan (plan views) (1/4" =1' scale)
 - d. Elevation plans (1/4" =1' scale)
 - e. Structural plans (1/4" =1' scale)
 - f. Section views (1/2" =1' scale)
 - g. Details (special construction and or connections) (1/2" =1' scale)
19. Minimum plumbing facilities (restrooms) are required in accordance with Washington State Amendments to the International Building Code, Chapter 29.

20. Storage of flammable and combustible materials and/or high piled storage items shall conform to the requirements of the current adopted edition of the International Fire Code (IFC).
21. When special inspections are required by an architect/engineer or by IBC Section 1704, the architect/engineer of record shall prepare an inspection program, which shall be submitted to the Building Official for approval prior to permit issuance. The special inspection program shall designate the portions of work requiring special inspections, the name of the individual or firm performing the inspections and the duties of the special inspectors. (IBC Section 1704)
22. 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.

October 6, 2011 – Memo:

1. The Technical Review Committee memo, dated October 5, 2011 and additional information does not change the Chief Plans Examiner comments submitted in the September 8, 2011, memo.

Fire Code: The Whatcom County Fire Marshal submitted a memo dated August 2, 2011 and then another memo on October 7, 2011 to add to the earlier memo with comments and conditions of approval that apply to the proposal with up to 350 participants. Comments are listed below, and conditions of approval listed in Section IX of this document.

1. The Whatcom County Fire Marshal's Office has reviewed the above permit for the addition of a 76' X 76' single story building and 350 participants.

Finding: The Technical Review Committee has determined that, subject to the requested conditions listed in Section IX of this report, the proposed use meets the requirements of WCC Title 15.

C. WCC Title 16 – Whatcom County Critical Areas Ordinance

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.

Whatcom County Planning & Development Services Department Natural Resources Division Critical Areas wetlands staff reviewed the proposal and submitted a Memo on July 14, 2011 with the following comments:

1. Information for the above proposed wedding venue has been routed to Critical Areas staff in conformance with WCC 16.16 Critical Areas Ordinance. Based on a review of Whatcom County critical area maps, there does not appear to be any indication of wetlands or habitat conservation areas on the parcel. However, the critical area maps are only an indication of the potential of critical areas, not an actual site assessment.
2. The above proposal has received critical areas approval.
 - Whatcom County Planning & Development Services Department Natural Resources Division Critical Areas wetlands staff reviewed and approved the addendum describing the Special Event portion of the cottage industry, and submitted comments indicating that earlier comments remained unchanged.

Finding: The Technical Review Committee has determined that as discussed above, the proposed use meets the requirements of WCC Chapter 16.16.

D. WCC Title 17 – Flood Damage Prevention

WCC Title 17 contains standards that regulate development within a flood hazard area as established in WCC 17.04.050. The subject property is not within a flood hazard zone.

Finding: The site is not located within a flood hazard area, therefore the proposed use is exempt from the requirements of Title 17.

E. WCC Title 20 – Official Whatcom County Zoning Ordinance

Chapter 20.40 – Agriculture District

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.

Discussion: From review of the site plan submitted, as amended, the Technical Review Committee estimates that the total land area proposed for holding wedding/reception/special events including parking, and the proposed tent/permanent building is 43,560 square feet (one acre) of the 37.63 acre. However, the permanent structure proposed is 76' X 76', a total of 5,776 square feet which exceeds the maximum allowed for the construction of new structures. The Technical Review Committee is recommending a condition of approval that allows a permanent structure to be constructed consisting of no more than 2,500 square feet in floor area to be located on the 76' X 76' concrete pad, in place of the temporary tent, within five years of CUP approval. The 43,560 square feet as shown depicted on the site plan for uses related to the cottage industry will occupy 2.65% of the site, and shall not one exceed one acre, thereby conforming to the requirements of WCC 20.36.161 (1).

- (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.

Discussion: The Applicant proposes that wedding participants will assemble for ceremonies and presentations in the area depicted on the site plan. Technical Review Committee recommends that participants not be confined to this exact area depicted on the site plan for the duration of these events, but be permitted to roam freely to take in views, enjoy the pastoral scenes of nearby farms, and disperse in close proximity to the assembly and seating area to socialize as is the custom at these types of events. As a condition of approval, the Technical Review Committee recommends that the Hearing Examiner require adequate landscaping and screening to buffer neighboring properties from the visual impacts of a large groups gathering on the subject property.

- (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.

Discussion: The Applicant has not requested approval for signage. The Technical Review Committee recommends that the Hearing Examiner require the installation of one non-illuminated sign not to exceed six feet in height at the entrance of the Boxx property for directional and identification purposes. Since it is a long meandering drive to reach the site of the proposed cottage industry, the Technical Review Committee recommends that the Hearing Examiner require that the Applicant post a map on the directional sign that identifies the access route in detail. It is further recommended that total signage shall not exceed a maximum of 16 square feet, and that a “turn-out” be provided to provide a stopping area so that participants may stop to orient themselves and review the signage for directions without blocking traffic.

- (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.

Discussion: Subsection 20.36.161 (4) above, does not apply to the subject application.

- (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.

Discussion: The application indicates that Mr. Boxx will be acting as the sole proprietor. During the October 4, 2011 meeting, with the Technical Review Committee, Mr. Boxx added anecdotally that in case of his absence, he would have one employee to cover for him to be present on the site during wedding/receptions/special events. Although this section allows the hearing examiner to approve up to four employees, staff recommends that the Hearing Examiner approve only two employees.

WCC 20.40.350 - Building Setback Criteria:

Building setbacks shall be administered pursuant to WCC 20.80.200.

Discussion: Whatcom County Public Works, Division of Engineering has reviewed Piper Road as a Local Access Road, therefore, the setback for structures from Piper Road will be 50 feet, and 20 feet from side and rear yard property lines.

WCC 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. Exceptions to the maximum lot coverage may be allowed when any of the following can be demonstrated:

- (1) Proposed structures, in excess of the allowed maximum lot coverage, are located on lesser quality soils.
- (2) Proposed structures in excess of the allowed maximum lot coverage support additional agricultural production on parcels other than the subject parcel.
- (3) Expansion of facilities that were in operation prior to the adoption of the ordinance codified in this section if it can be demonstrated that substantial on-site investment has been made and location of additional structures off-site would cause an economic hardship to the farm operation. (Ord. 2006-048 § 1 (Exh. A), 2006).

Discussion: No new structures proposed in this application will occupy or cover more than 25% of the total area of the subject parcel. The permanent 76' X 76' one story building, to replace the temporary tent, proposed in phase 2 of the application is 5,776 square feet which is approximately 0.35% of the total area of the subject parcel. However, the permanent structure as proposed is 76' X 76', a total of 5,776 square feet which exceeds the maximum allowed for the construction of new structures as provided in WCC 20.36.161 (1).

The Technical Review Committee is recommending a condition of approval that allows a permanent structure to be constructed consisting of no more than 2,500 square feet in floor area to be located on the 76' X 76' concrete pad, in place of the temporary tent, within five years of CUP approval. This structure will occupy 0.15% of the subject parcel, which is less than 25%, therefore the permanent structure conforms with the above requirements of WCC 20.40.450 (3) – Lot Coverage.

WCC 20.40.651 – Landscaping:

Landscaping shall conform to the requirements of WCC 20.80.300. *Discussion: The Technical Review Committee is recommending a condition of approval that an approved landscaping site plan be submitted that shows a continuous coniferous tree line for approximately 560 lineal feet along the southern property line as it begins at the most southwesterly corner. The required coniferous tree line is to provide a buffer between the subject parcel and the nearest developed parcel in separate ownership. Conifers shall be planted at intervals of 12 feet. Installation of the tree line shall be installed within two years of conditional use approval, and maintained in thriving vigorous condition for the life of the conditional use permit.*

WCC 20.40.652 – Drainage:

All development activity within Whatcom County shall be subject to the stormwater management provisions of the Whatcom County Development Standards unless specifically exempted.

No project permit shall be issued prior to meeting submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards.

Discussion: The proposal has been reviewed by Public Works Division of Engineering, and conditions of approval are requested that will ensure conformance with WCC 20.40.652.

WCC 20.40.662 - Use of Natural Resources

All discretionary project permits for land on or within one-half mile of the area designated as Agriculture, Rural, Commercial Forestry or Rural Forestry or within 300 feet of an area designated as Mineral Resource Lands in the Whatcom County Comprehensive Plan, or upon which farm operations are being conducted, shall be subject to the right to farm, right to practice forestry and mineral land disclosure policies contained in WCC Title [14](#), Use of Natural Resources.

Discussion: The Technical Review Committee is recommending that the Hearing Examiner require the Applicant to comply with natural resources disclosure policies contained in WCC Title 14. As discussed above, and subject to the requested condition, the proposed use meets the requirements of WCC 20.40.662.

WCC Chapter 20.71 Water Resource Protection Overlay District

Water Resource Protection Overlay areas are defined in WCC Chapter 20.71 and include the entire geographic area of the Lake Whatcom, Lake Samish, and Lake Padden watersheds within Whatcom County's jurisdiction. These areas are also designated stormwater special districts pursuant to WCC 20.80.635 and water resource special management areas pursuant to WCC 20.80.735.

Discussion: The proposed conditional use permit is not located within a regulated watershed and therefore is exempt from the requirements of WCC Chapter 20.71.

WCC Chapter 20.78 Transportation Concurrency

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

Discussion: Public Works Division of Engineering reviewed the Preliminary Traffic and Concurrency information submitted at time of application. Based on the information submitted, requested conditions of approval ensure conformance with this Chapter.

WCC 20.80.21 - Concurrency

WCC Section 20.80.212 states that no conditional use permit shall be approved without a written finding that:

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

Water & Sewer

Discussion: The Applicant indicated that water used in the proposed cottage industry in the first phase will be limited to washing down the concrete pad on which the temporary tent is located, and that temporary hand washing stations will be provided, and Porta – Potti’s will be provided to accommodate sewage. In the second phase of the project permanent restrooms will be required per the building permit subject to approved water and sewer availability at time of that application.

Schools

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

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

Discussion: The Notice of Application was published in a journal of record describing the proposed use, and no comments were received from School District # 502 indicating that the use would increase a requirement for services.

Fire Protection

Discussion: The proposed use located within the service area designated as Fire District No. 7. The Notice of Application was published in a journal of record describing the proposed use, and no comments were received from District indicating that the use would increase a requirement for services.

Finding: The Technical Review Committee has determined that, subject to the requested conditions, no county facilities will be reduced below applicable levels of service as a result of the development.

WCC 20.84.220 - Conditional Use Permit Criteria

Before approving an application for a conditional use permit, 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:

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

Discussion: Many residents in rural Whatcom County depend on cottage industries, home occupations, small businesses, and natural resource-based jobs for their livelihood. These types of businesses support the local economy and are compatible with the rural lifestyle desired by county residents.

The Whatcom County Comprehensive Plan, Appendix A – Glossary describes the purpose of cottage industries and how they serve to fulfill planned objectives for rural character.

“Cottage industry: Small industrial, commercial, or service operations, 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. *However, it may be of any type*, so long as the scale of the operation is in keeping with the surrounding area and off-site impacts are comparable in intensity to those generated by residential uses allowed in the zone.” (emphasis added)

Chapter Seven of the Whatcom County Comprehensive Plan encourages locally owned and operated businesses to re-invest profits and wages in the local community. Policy 7F-1 of this chapter states: “Support existing local business as the major contributors of job creation and regeneration and afford them every opportunity to continue their success in the community.”

Although the proposed use is located in an area zoned Agriculture, and in an area subject to a Comprehensive Plan designation of Agriculture, the provisions for cottage industries in the Agriculture zone are referred to those found in the Rural District. Uses provided for in the Rural District are meant to implement the Whatcom County Comprehensive Plan, Rural Designation. Rural areas in Whatcom County provide opportunities for a variety of low-density residential development including cluster development. Flexibility to practice farming or forestry, operate home occupations and cottage industries and still retain a sense of community, are all goals for the County’s Rural areas. The rural character and lifestyle is described as open space areas that are quiet and offer privacy that offer a lower density population where there is less noise and congestion than urban areas. The rural designation also provides for agricultural uses.

The Applicant indicated that by bringing people to the farm and holding these events on his property in close proximity to everyday farm operations, it helps to educate the public and increase awareness about the importance of farming in Whatcom County. He indicated, that one of the reasons for the success of wedding venues located in rural and agricultural areas is because of beauty and tranquility presented in the pastoral scenes of farm fields, crops under cultivation, and in the wide open spaces.

Chapter Eight – Resource Lands in the Whatcom County Comprehensive Plan discuss the importance of “Agriculture Related Heritage”, and identify Goals and Policies to promote the ability of farmers to maintain this Heritage.

Mr. Boxx and his extended family, have been farmers in Whatcom County for some time. Approving a cottage industry that allows the Applicant an opportunity to augment his farm income, is consistent with Chapter Eight Goals and Policies in the Comprehensive Plan that promote the expansion and stability of local and regional agricultural economies.

(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: As conditioned, the proposed cottage industry will operate in such a way so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity. The Applicant proposes that income from renting his property to hold weddings/receptions and special events to groups of people will augment his farm income, and sustain his ability to maintain his farming practice during fluctuating economic conditions.

As conditioned, large groups of no more than 150 persons consisting of family and friends of will gather on his 37.63 acres, to enjoy themselves as paying guests no more than 12 times per year, or in the case of special events no more than 350 persons, twice yearly. Twelve times a year, up to 50 vehicles will be on the site at any given time, with the weddings/receptions portion of the proposed cottage industry. Twice, yearly there will be 117 vehicles on site for special events. There is adequate parking in the margins of the driveways of the farm as shown on the site plan. The site is already frequented by customers in the summer who come to pick berries. The proposed use as conditioned will not change the essential character of the area.

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

Discussion: *As conditioned*, the use will not be hazardous or disturbing to existing or future neighboring uses beyond the level of what could be expected from the allowable uses permitted in the zone. In response to public comment indicating that wedding events held at the property prior to this review or approval have been extremely disturbing especially because of noise and dust, the Technical Review Committee is recommending conditions that will mitigate these impacts, including limits on hours of operation, and limiting the number of events allowed per month, and also a requirement that the Applicant provide notice to the Whatcom County Sheriff with information as to the scope of approval, and prior to each Special Event. The Technical Review Committee is recommending that the Examiner approve the Applicant's request to be allowed to use amplified voice and music at the site subject to an approved noise mitigation plan prior to any further events once approval is granted. Also recommended, is that the same condition that the Hearing Examiner imposed on another CUP for a wedding venue (CUP2011-00002 – Lohse) be imposed, i.e. that that any sounds related to the weddings/receptions/special events held on the property comply with the Class A Residential Source to Residential Receiving Property Standards of WAC 173-60-040.

(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. The level of service for access, fire, and police will remain unchanged or be adequately provided for as discussed below:

Roads:

Public Works Engineering Services has reviewed the site plan and has required that because the driveways are long, that the Applicant show areas for designated "turn outs" and that as a condition of approval the Applicant be required to put up a temporary barricade that blocks access to Neevel Road during wedding/receptions/special events.

Police and Fire Protection: Emergency Services are provided by Whatcom County Fire District No. 7 and the Whatcom County Sheriff's Department. A condition of approval is requested that the Applicant to provide notification to the Whatcom County Sheriff's office with the scope of the

approval and notice of all applicable conditions, including a site plan. In addition, the Applicant has agreed to notify the Sheriff's Office prior to each Special Event.

Environmental Health: The application was submitted to the Whatcom County Health Department. Health Department staff reviewed the application and submitted conditions of approval that address requirements pertaining to the requirement of an approved water source, on-site sewage, and food preparation.

(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: The Technical Review Committee finds as conditioned, the proposed cottage industry will not create additional public costs for public facilities and services, and will not be detrimental to the economic welfare of the community.

The proposal will most likely generate economic opportunities for the property owner, photographers, musicians, wedding planners and designers, caterers, clothiers, horticulturists, and transportation services. The proposed cottage industry may promote awareness that agriculture and well managed "value-added" enterprises such as wedding/receptions and special events that bring groups of people together to gather on farms, enjoying the pastoral setting can co-exist peacefully and sustainably.

(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: Subject to the proposed conditions, the cottage industry, will not be detrimental to any person's property, or the general welfare by reasons of excessive traffic, noise, smoke, fumes, glare, or odors.

Public comment indicated that the property owner is currently holding events at his property, and that several Parties have reported being greatly disturbed by excessive noise and dust from these events. To mitigate potential impacts, the Technical Review Committee is recommending that the Hearing Examiner approve conditions that will require that the Applicant comply with Class A Residential Source to Residential Receiving Property Standards in WAC 173-60-040; and that any gravel or dirt surface upon which vehicles travel will be required to be treated in some way to effectively control dust, both when participants arrive, and when they leave. No fireworks will be permitted in scope of the approval. No smoke or fumes will be created in any amount or duration that would exceed what would be expected from uses permitted in the zone; and conditions will be in place that requires parked cars be positioned in such a way so as not to reflect sun or cause glare to neighboring properties.

(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: Whatcom County Public Works Engineering Services has reviewed vehicular access to the subject parcel, and determined that the site plan needed to show turn outs, and that access to Neevel Road be prohibited during wedding/receptions/special events, and that a temporary barricade be erected at point of ingress/egress to prevent traffic from inadvertently using Neevel Road.

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

Discussion: The subject application was routed to the Whatcom County Natural Resources team for review of potential impacts to critical areas. A determination was made that there are no shoreline,

critical areas, geohazard or flood concerns regarding this proposal. No scenic or historic features of major importance have been identified on or in close proximity to the site.

WCC 20.97.089 – Definition of Cottage industry

“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:

Discussion: The proposed weddings/receptions/special events cottage industry is a commercial operation conducted on a parcel where the operator resides. The property owner is offering a commercial service venue to clients, who wish to pay for the opportunity to gather or assemble upon his agricultural acreage, enjoying the pleasant pastoral landscape, and territorial views.

- (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.

Discussion: The Technical Review Committee finds that subject to the proposed conditions, a 150 person wedding/reception venue twelve times per year is in keeping with the surrounding area, and off-site impacts that would generated are comparable in intensity to those generated by uses allowed in the zone. The Technical Review Committee is recommending conditions that will allow gatherings of up to 150 people on a 37.63 acre parcel, not to exceed three per month in any given month of the year. Special events with gatherings of up to 350 people will be allowed twice yearly, not to coincide on a weekend when a wedding/reception will be held. The Technical Review Committee is recommending conditions that will limit the hours of operation for weddings/receptions from 8 am to 10 pm, and for special events from 8 am 11 pm. Subject to the recommended conditions, the proposed cottage industry will be in keeping with the surrounding area, and off site impacts will be comparable to those generated by uses allowed in the Agriculture District.

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

Discussion: The proposed changes in building size or lot coverage have been reviewed and approved for consistency with the standards of the Agriculture District on Page 15 of this report. Two employees are proposed, and as conditioned, the phase 1 temporary tent, and the phase 2 permanent building consisting of no more than 2,500 in floor area, is consistent with the standards of the 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.

Discussion: The conditional use permit holder will be required to live on site. The primary use of the property is for residential purposes and agricultural purposes. The Applicant has stated that the proposed cottage industry is to augment his farm income and assist him with upkeep costs of his farm and residence. Whatcom County Comprehensive Plan County Wide Planning Policies state: “Whatcom County shall become a government of rural areas in land use matters...” Rural areas allow for a mix of uses, and as conditioned the use will be clearly incidental to the use of the site for residential and agricultural purposes.

- (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.

Discussion: There will be no change in the outside appearance of any building on the property. Large groups of people are often seen gathering on property in the County’s

Agriculture Districts, and given the weather in the Pacific Northwest, temporary tent structures are also a common sight. The permanent structure proposed in Phase 2 will be a one story building of typical construction that is consistent with farm buildings in the area.

- (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.

Discussion: Traffic generated by the the cottage industry will not be in greater volume than would be expected in the zone. The proposal was reviewed and subject to proposed conditions, approved by Public Works Engineering. Comments submitted by Engineering indicated that roads proposed for access could accommodate the proposed traffic.

- (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.

Discussion: Weddings/receptions/special events are not specifically listed in Title 20 parking requirements. Based on a review of similar uses i.e. Churches, which require 1 parking space for every four attendees, the Technical Review Committee recommends that one parking space be provided for every three persons who visit the site, and that the Applicant should provide 50 parking spaces for the weddings/receptions and that all parking shall be installed in accordance with federal and state regulations for ADA accessibility. The Applicant has shown space for up to 117 parking spaces on the application site plan for special events. The Technical Review Committee is recommending that prior to the holding of the first event under this approval, that a scaled parking plan showing all parking is recorded on file with Whatcom County Planning & Development Services Department.

- (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.

Discussion: As conditioned, no aspect of the cottage industry will create 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. Noise will be regulated per State law, and the Applicant will be required to enter into an approved Noise Mitigation Plan to be recorded on file with Whatcom County Planning & Development Services Department prior to the holding of the first event under this approval.

- (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.

Discussion: No sales are proposed in connection with the cottage industry, and it is recommended that none be approved without further review and approval.

- (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.

Discussion: The Technical Review committee is recommending that cottage industry hours of operation be approved as follows:

1. *Weddings/Receptions: 8 am – 10pm*
2. *Special Events: 8 am – 11pm*

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

Discussion: As a condition of approval, the Whatcom County Chief Plans Examiner, is requiring a permit for the proposed permanent building. An inspection from a Public Service Inspector will be required to ensure that the structure complies with life/safety regulations prior to its occupancy and use for holding meetings and assembly.

- (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.

Discussion: No manufacturing or assembly is proposed as part of this cottage industry.

Finding: The Technical Review Committee finds the proposed cottage industry as conditioned, will conform to the requirements of WCC Title 20.

F. WCC Title 23 – Shoreline Management Program

WCC Title 23 contains standards that regulate development within the shorelines of the state pursuant to the State of Washington Shoreline Management Act (SMA). The purpose and intent of the Whatcom County Shoreline Management (SMP), Title 23, is to promote the public health, safety, and general welfare of the community by providing long range, comprehensive policies and effective, reasonable regulations for development and use of Whatcom County shorelines; and to manage shorelines in a positive, effective, and equitable manner.

Finding: The site is not located within a jurisdiction of the SMP, therefore the proposed use is exempt from the requirements of Title 23.

G. Health Code (Title 24)

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

The Whatcom County Health Department (WCHD) submitted a memo dated August 11, 2011 with requested conditions that apply to the proposed development, located in Section IX of this document. Health Department staff reviewed the addendum describing the special events portion of the cottage industry and stated in an email, that the August 11, 2011 conditions of approval would not change in light of the new information.

Finding: The Technical Review Committee has determined that as discussed above and subject to the requested conditions, the proposed cottage industry meets the requirements of WCC Title 24.

H. Whatcom County Comprehensive Plan

Zoning regulations of a specific use district are meant to implement the goals and policies of the County's Comprehensive Plan. Conditional uses are those uses that may be approved within a zoning district if it is determined that the specific use requested is consistent with the general and specific objectives of the Whatcom County Comprehensive Plan. The proposed use that is the subject of this report has been reviewed for consistency with the following goals and policies of the Whatcom County Comprehensive Plan:

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

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

Goal 8C: Preserve and enhance the cultural heritage that is related to agriculture.

Policy 8C-1: Find ways for retiring farmers to pass on their farms to their children and for young farmers to be able to afford to buy productive farmland.

Policy 8C-2: Identify, preserve, and enhance community character, landscape and buildings associated with agricultural activity.

Policy 8C-4: Support the continuation of owner occupied/family owned farms.

Whatcom County County-Wide Planning Policies:

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

Finding: The Technical Review Committee finds that the application for a conditional use permit to authorize a cottage industry as discussed in this report is consistent with the Goals and Policies of the Whatcom County Comprehensive Plan.

VIII. RECOMMENDATION

The Technical Review Committee recommends that the Whatcom County Hearing Examiner approve Mr. Boxx’s application for a conditional use permit to operate a cottage industry in two phases, composed of two parts: “weddings/receptions” and “special events” on a 37.63 acre parcel upon which the applicant resides, subject to requested conditions listed below.

IX. CONDITIONS OF APPROVAL

A. Planning Division

1. Permit Changes or Modifications: 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. Weddings/Receptions:
 - A maximum of 12 Wedding/Receptions are permitted per calendar year.
 - A maximum of 3 Wedding/Receptions are permitted per month.
 - A maximum of 150 persons including wedding guests & associated service staff are permitted on site at any given time.
 - Approved Hours of Operation are 8 am – 10 pm.
 - A maximum of 50 vehicles associated with Weddings/Receptions events are permitted on site at any given time.
 - Required licenses or permits must be obtained if alcohol is served.
 - Notification shall be provided to the Whatcom County Sheriff’s Office describing the conditions of approval associated with the cottage industry, including Applicant contact information.
3. Special Events:
 - A maximum number of two Special Events are permitted per calendar year, and these events shall not coincide with a wedding event on the same weekend.
 - A maximum of 350 Special Event participants are permitted on site at any given time.
 - Approved Hours of Operation are 8 am – 11 pm.
 - A maximum of 117 vehicles 50 vehicles associated with Special Events are permitted on site at any given time.

4. Employees: A maximum number of two employees are permitted to be engaged in operations of the cottage industry (this does not include various support staff that may be on the site associated with wedding events and business retreat events such as musicians, photographers, caterers).
5. Applicant Onsite During Events: The Applicant or his or her designee shall be on site at all times when any event is held. The Applicant shall be required to monitor and manage any event held to ensure compliance with conditions of approval.
6. Parking: Pursuant to WCC 20.80.500, adequate parking shall be established. An approved parking plan shall be submitted prior to the first event held under the approval of this permit. Parking shall be provided at a rate of one parking space for every three guests. Parking shall be installed in accordance with federal and state regulations for ADA accessibility. In the event there is a conflict between the state and the federal regulation(s), the state regulation(s) shall apply.
7. Traffic Mitigation Measures: The Applicant shall provide vehicle turn-outs on the approved cottage industry access route as required by Public Works Division of Engineering. In addition, the Applicant shall provide a vehicle turn-out in reasonably close proximity to directional signage specified in IX (A) (18) of this Subsection, so that clients may pull over to orient themselves to the site, without blocking traffic.

For the duration of each wedding/reception or special event, a temporary barricade shall be erected where the approved cottage industry access road intersects with the Neevel Road ROW at the western property line of the subject parcel. The Applicant shall ensure compliance with this condition, and ensure that the temporary barricade effectively prevents unauthorized ingress or egress at that point.

8. Dust Control: Any gravel or dirt surface upon which vehicles travel shall be treated to effectively control dust generated from traffic at time of arrival to the site and at time of departure from the site.
9. Phase 1: Temporary Tent: The temporary tent proposed to house ceremonies, presentations and seating areas associated with the cottage industry shall be installed on the 76' X 76' concrete pad, no earlier than the beginning of the 2nd week in the month of May, and taken down no later than by the end the first week in the month of October. There shall be only one (1) temporary tent, as shown on the approved site plan.
10. Phase 2: Permanent Building to Replace Temporary Tent: A one story permanent building consisting of no more than 2,500 square feet in floor area may be constructed on the 76' X 76' concrete pad in place of the temporary tent, to house weddings/receptions/special events subject to issuance of building permit and any applicable State, of Local regulation regarding its occupancy or construction; provided that the construction of this building shall be completed within five years of CUP approval; and further provided, that the temporary tent structure shall be removed, and no longer used as part of the cottage industry, unless otherwise approved by the Hearing Examiner.
11. Noise: The Applicant is required to ensure that sounds from related from weddings/receptions and special events held on the property comply with the Class A Residential Source to Residential Receiving Property Standards of WAC 173-60-040. The Applicant shall take additional, available reasonable steps to reduce the noise emanating from the property to a level below the Noise Standards allowed by the WAC.

12. Noise Mitigation Plan: The Applicant shall file for record with the Whatcom County Planning & Development Services Department an approved Noise Mitigation Plan that is installed and effective prior to the first event held under this approval.
13. Lighting: Pursuant to WCC 20.80.523; any lights shall be so arranged as to direct the light away from the adjoining property and the public road.
14. Glare: Parked vehicles shall be situated on the lot to prevent sun from reflecting glare visible to any neighboring properties or uses.
15. No Fireworks: The lighting of fireworks is prohibited in the context of the approved Cottage Industry.
16. Notification: The Applicant is required to notify the Whatcom County Sheriff's Office that the site is used for a cottage industry featuring weddings /receptions/special events prior to the first event held under this approval. The Applicant shall provide Sheriff's Office with a record of conditions that apply to the approved cottage industry activities permitted on the site, and such notice shall also include a site plan. The Applicant shall notify the Whatcom County Sheriff's Office two days in advance of any Special Event being held on the property.
17. Refuse: The Applicant shall identify a method of refuse collection and disposal, and clearly identify location of refuse containers on an approved site plan, filed for record with Whatcom County Planning and Development Services Department, prior to the first event held under this approval.
18. Signage: The Applicant shall install one non-illuminated freestanding sign, not exceeding six feet in height to be located as close as reasonably possible to the entrance of his property from Piper Road. The sign shall show a vicinity map showing the route of access through the Farm to the event location. One additional non-illuminated 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 pursuant to WCC 20.36.161(3). A building permit is required prior to installation of a sign.
19. Buffer Requirements: An approved landscape site plan shall be filed on record with Whatcom County Planning and Development Services Department that shows a continuous coniferous tree line for approximately 560 feet along the southern property line, beginning at the most southwesterly corner to provide a buffer between the subject parcel and the nearest developed parcel in separate ownership. Trees shall be planted at intervals of 12 feet. *Installation of the tree line shall be installed within two years of conditional use approval, and maintained in thriving vigorous condition for the life of the conditional use permit.*
20. CUP Nontransferable: Pursuant to WCC 20.84.210, Conditional Use Permits shall be nontransferable unless said transfer is further approved by the hearing examiner.
21. Right to Farm: Pursuant to WCC, Title 14, the owners of the property upon which this conditional use permit approval is granted shall sign a statement of acknowledgment containing a disclosure that pertains to the use of natural resources in Whatcom County. This disclosure shall be made on forms provided by Whatcom County, which shall then be recorded in the Whatcom County Auditor's office.

B. Building Services Division

1. A building permit is required for this proposal.

2. Due to the scope of the proposed project, the Applicant must apply to the Building Official for a pre-application screening prior to building permit application submittal. At the Building Official's discretion a pre-application meeting may be required.

E. Fire Marshal's Office

August 2, 2011 – Conditions to address 150 Building Occupants:

The Whatcom County Fire Marshal's Office has reviewed the above permit application for the addition of a 76' X 76' single story building with 150 occupants. The following conditions will apply when building permit is applied for.

1. Fire flow will be required. A minimum 2000 GPM @ not less than 20PSI shall be provided for 1 hour per International Fire Code. Hydrants, pumps, water supply, and pipes shall be designed by a Washington State Licensed Engineer. System shall be installed prior to any construction of the 76' X 76' single story building.
2. Fire sprinkler system required. Plans and specification shall be submitted to the Fire Marshal's Office for review and permitting. Fire sprinkler system is required because of the reduction in fire flow.
3. Fire alarm system required. Plans and specification shall be submitted to the Fire Marshal's Office for review and permitting.
4. Fire extinguisher size shall be 2A10BC and the locations shall be approved by the Fire Marshal.
5. Fire department access shall meet the requirements of the Whatcom County Development standards for roads.
6. The proposal shall comply with all applicable codes and ordinances adopted by Whatcom County. Any overlooked hazardous condition and/or violation of applicable code does not imply approval of such condition or violation.

October 7, 2011 – Conditions to address 350 Building Occupants:

1. Fire flow will be required. A minimum 2000 GPM @ not less than 20PSI shall be provided for 1 hour per International Fire Code. Hydrants, pumps, water supply, and pipes shall be designed by a Washington State Licensed Engineer. System shall be installed prior to any construction of the 76' X 76' single story building.
2. Fire sprinkler system required. Plans and specification shall be submitted to the Fire Marshal's Office for review and permitting. Fire sprinkler system is required because of the reduction in fire flow.
3. Fire alarm system required. Plans and specification shall be submitted to the Fire Marshal's Office for review and permitting.
4. Fire extinguisher size shall be 2A10BC and the locations shall be approved by the Fire Marshal.
5. Fire department access shall meet the requirements of the Whatcom County Development standards for roads.
6. The proposal shall comply with all applicable codes and ordinances adopted by Whatcom County. Any overlooked hazardous condition and/or violation of applicable code does not imply approval of such condition or violation.
7. The tent shall comply with Chapter 24 of the International Fire Code (IFC).

*****This is a Roof only no sides allowed.*****

~2403.2 Tents and membrane structures shall not be erected, operated or maintained for any purpose without first obtaining a permit and approval from the fire code official.

~2403.4 Operational and Construction permit required per section 105.6 and 105.7.

~2403.5 Tents shall not be erected for a period of more than 180 days in a 12 month period on a single premises.

~2403.6 A detailed site and floor plan shall be provided. Site plan shall show all parking, traffic flow, and fire department access. Floor plan shall indicate details of the means of egress, seating capacity, arrangements of the seats and location and type of heating and electrical equipment.

~2403.7 Tent shall be inspected at regular intervals, but not less than two times per permit use period by the permittee, owner or agent to determine that the installation is maintained in accordance with this chapter. A report shall be provided to the fire marshal if the tent will stay erected for more than 30 days. Report shall consist of maintenance, anchors and fabric inspection.

~2403.8 Fire Department access road shall be not less than 20 feet wide per section 503.

~2403.8.2 Tents shall not be within 20 feet of lot lines, buildings, other tents, parked vehicles or internal combustion engines. For the purpose of determining required distance, support ropes and guy wires shall be considered part of the tent.

~2403.8.6 An unobstructed fire break of not less than 12 feet wide and free from ropes and other obstructions shall be maintained on all sides of all tents.

~2403.9 Tents and their appurtenances shall be adequately roped braced and anchored to withstand the elements of weather and prevent against collapsing. Documentation of structural stability shall be furnished to the fire marshal.

~2403.11 Seating in tents shall be in accordance with chapter 10. (see Section 1028)

~2403.12.5 Exit aisle from seating area shall be not less than 44 inches of smooth surface.

~2403.12.5.1 The arrangement and maintenance of aisles shall be approved by the fire marshal.

~2403.12.7 Means of egress shall be illuminated with light having an intensity of not less than 1 foot-candle (11 lux) at floor level while the structure is occupied. Fixtures required for means of egress illumination shall be supplied from a separate circuit or source of power.

~2403.12.8 The required width of exits, aisles and passageways shall be maintained at all times to a public way. Guy wires, guy ropes and other support members shall not cross a means of egress at a height of less than 8 feet (2438 mm). The surface of means of egress shall be maintained in an approved manner.

Section 2404 additional items to be addressed:

Flame Treatment

- Labeling
- Certification
- Combustible materials
- Smoking Prohibited

- Open flame Prohibited
- Fireworks Prohibited
- Spot and effect light
- Motion picture
- Clearance
- Portable fire extinguisher
- Fire protection equipment (May be required)
- Occupant load
- Heating and cooking equipment
- LP-gas
- Flammable and Combustible liquids
- Display of motor vehicles
- Separation of generators
- Standby personnel
- Combustible Vegetation
- Combustible waste material
- Adequate provisions to contact 911 shall be made available.

F. Public Works – Engineering Division

1. All development shall comply with Whatcom County Development Standards.
2. Scaled site plan in standard engineering scale (1"=20') shall be submitted with the building permit application clearly showing vehicle access to the property, traffic flow on the site, footprints of the proposed structures, parking area, width of driveway and proposed impervious square footage. Stormwater Report prepared by a professional engineer may be required based on the submitted Site Plan and total square footage of the impervious surface on the site (gravel is considered impervious as well as asphalt). This shall include buildings, driveways, parking area.
3. As per Chapter 2, Sec. 218 (B), the Applicant shall post a maintenance security bond with the Division of Engineering for any proposed drainage facilities. The security shall be for an amount of 10% of the engineer's construction cost estimate or \$5000.00 (whichever is greater). The security shall be in effect for 2 years from the date of provisional acceptance of new drainage facilities.
4. Prior to Certificate of Occupancy for the required commercial building permit an As-built drawings-Record Drawing for the new drainage system/facility must be provided to the Engineering Services for permanent file record.

G. Health Department

Water: If employees or the public have access to water then public water is required.

Sewage: If plumbing is run to any building, an approved on-site sewage permit is required. Any alternate sewage disposal method will be required to be reviewed by WCHD to ensure adequate provisions for sewage disposal have been made.

Food Service: If food is to be prepared for the public, a food handling permit is required. Any caterer serving food to guests must have a valid permit from WCHD.

Report prepared for the Technical Review Committee by:

Erin Osborn, Planner