

PLANNING COMMISSION AGENDA ITEM COVER SHEET

Meeting Date		Staff Contact	
3/12/2009		KURT NABBefeld	
Subject:			
Proposed code amendments to the Lake Whatcom Reservoir Regulatory Chapter and the Stormwater Ordinance.			
Attachments:			
1. Staff Report			
2. Draft Findings of Fact, Conclusions and Recommendation			
3. Applicable Comprehensive Plan Goals and Policies			
4. Draft Silver Beach Ordinance			
5. Draft Stormwater Ordinance			
Meeting Type		Category	
<input checked="" type="checkbox"/> Public Hearing		<input checked="" type="checkbox"/> Legislative	
<input type="checkbox"/> Public Meeting		<input type="checkbox"/> Quasi-judicial	
<input type="checkbox"/> Work Session		<input type="checkbox"/> Information Only	
<input type="checkbox"/> Briefing			
Clearances	Initials	Date	
Tim Stewart, Director	TMS	2-23-09	
Alan Marriner, Legal	AAm	2/26/09	
Kurt Nabbefeld, Senior Planner	KN	2-20-09	
Bill Reilly, SSWU Manager	WR	2-23-09	
Previous Commission Meeting or Action:			
Recommended Action:			
Approve the proposed changes to both the Lake Whatcom Reservoir Regulatory Chapter (BMC 16.80) and Stormwater Ordinance (BMC 15.42)			

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CITY OF BELLINGHAM PLANNING STAFF REPORT

Agenda Topic:	<i>Amendments to the Lake Whatcom Reservoir Regulatory Chapter and Stormwater Management Code</i>
For:	<i>March 12, 2009</i>
Staff Contacts:	<i>Kurt Nabbefeld, Senior Planner Bill Reilly, SSWU Manager Kim Weil, Environmental Planner II</i>

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I. SUMMARY OF PROPOSAL

15 The Lake Whatcom Reservoir is the primary drinking water source for approximately 95,000
16 people in Whatcom County, including 82,000 served by the City of Bellingham. Scientific data
17 shows that Lake Whatcom's water quality continues to deteriorate and at a pace that is faster
18 than anticipated; potentially harming the health, safety and welfare of the public. The decline in
19 the lake's water quality directly impacts the City's ability to meet internal, state and federal
20 drinking water standards.

21
22 As part of the ongoing community effort to protect and preserve Lake Whatcom water quality,
23 Mayor Pike and the City Council have directed staff to evaluate current development regulations
24 for that portion of the Lake Whatcom watershed within City jurisdiction and recommend possible
25 amendments. This report identifies possible amendments and a general phased work program
26 to improve the water quality of Lake Whatcom, including:

- 27
- 28 1. Changes to both the Lake Whatcom Reservoir Regulatory Chapter (BMC16.80),
29 commonly known as the Silver Beach Ordinance, and the Stormwater Management
30 Code (BMC 15.42) and;
 - 31 2. Continued implementation and funding of the Lake Whatcom Reservoir Management
32 Program and;
 - 33 3. A City/County coordinated Implementation Plan in response to the State Department of
34 Ecology's Total Maximum Daily Load (TMDL) Study for Lake Whatcom.

35
36 Because portions of the work program are ongoing (#2) and still under development (#3), the
37 focus of this report is on amendments to the Silver Beach Ordinance (SBO) and the Stormwater
38 Ordinance. These amendments are intended to reduce the potential nutrient and pollutant
39 loading that may result from new development and/or modifications to existing development
40 within the City's portion of the watershed.

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II. PLANNING COMMISSION ROLE

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45 The proposal before the Commission is a legislative development code amendment requiring a
46 Type VI process. The Planning Commission must hold a public hearing and issue findings of
47 fact and conclusions along with a recommendation to the City Council. Draft findings and
48 conclusions are included in the staff report, see Attachment A. The Commission should adopt or
49 modify the draft findings as needed to support the Commission's ultimate recommendation.
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1
2 **III. BACKGROUND**
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4 For many years the water quality of Lake Whatcom has been a topic of discussion and concern
5 by the citizens of Bellingham. Since 1990 the City has endeavored to protect this waterbody
6 through the application of special regulations.
7

8 In 1998 the Washington State Department of Ecology (DOE) listed Lake Whatcom as an
9 impaired water body under section 303(d) of the federal Clean Water Act. In 2002, the lake was
10 again listed under the same section of the Act for additional polluting substances. Standards not
11 being met now include; dissolved oxygen, total phosphorus as well as several other parameters.
12

13 In April 2008, Western Washington University's Institute for Watershed Studies released its
14 yearly Lake Whatcom Monitoring Report. This report documents that the health and water
15 quality of the lake continue to decline. Also in April 2008, the DOE released the draft Lake
16 Whatcom Watershed Total Phosphorus and Bacteria Total Maximum Daily Loads (TMDL)
17 Water Quality Study Findings. A Final TMDL Study was released in November 2008. These
18 findings are based on output from a watershed model and define the range of reductions to the
19 total load of phosphorus needed in order to meet state water quality standards.
20

21 The City and County are legally required to develop a response / implementation plan showing
22 how the jurisdictions will comply with the goals of the Final TMDL Study. As a part of the
23 response / implementation plan, Lake Whatcom Reservoir Management Program staff will
24 continue to seek opportunities to improve and enhance current programs while developing
25 effective new programs to reduce phosphorus loading to the lake.
26

27 **INTERIM MORATORIUM**
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29 On May 19, 2008, the City Council adopted an emergency interim ordinance establishing a
30 moratorium on the filing, acceptance, and processing of applications for divisions of land and
31 building permits within the City's portion of the Lake Whatcom watershed. On June 23, 2008,
32 the City Council adopted a second emergency interim ordinance modifying the moratorium to
33 include land disturbance activities exceeding 500 square feet and subject to the City's
34 Stormwater Ordinance (BMC 15.42).
35

36 During the interim period, staff was directed to study and report back to the City Council as to
37 what amendments should be made to development regulations to help the City meet the loading
38 goals established by the TMDL Study. Following this direction, staff from the Planning and
39 Community Development and Public Works Departments researched multiple strategies,
40 including potential changes to the Silver Beach Ordinance.
41

42 On September 16, 2008 the City Council initiated the public review process for code changes to
43 the Lake Whatcom Reservoir Regulatory Chapter (BMC 16.80). These changes are intended to
44 reduce the impacts of land disturbing activities on water quality and are one component in the
45 City's response to the declining water quality of Lake Whatcom.
46

47 **MANAGEMENT PROGRAM**
48

49 The ongoing Lake Whatcom Reservoir Management Program has initiated multiple actions to
50 improve the water quality of the county's main drinking water reservoir. These actions have
51 been implemented since 1992 and during the past 8 years have become increasingly focused

1 on reducing the phosphorus loading into the lake. As water quality indicators such as increased
2 algae blooms and longer periods of low dissolved oxygen periods, continue to worsen we have
3 responded with increasingly aggressive actions. These actions include legislated bans on
4 phosphorus-content lawn products, multiple stormwater system retro fits, improved development
5 standards, purchase of watershed properties, enhanced water quality monitoring and targeted
6 education programs.

7 8 **TOTAL MAXIMUM DAILY LOAD RESPONSE**

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10 The 2009 Lake Whatcom Reservoir Management Work Plan will, in addition to continuing the
11 ongoing and successful programs, also include by reference the TMDL Response Plan tasks.

12
13 Together, the existing work plan and the new programs will constitute the TMDL Response
14 Plan, which is a required element of the TMDL process. Specifically, the plan must indicate to
15 the DOE how the City intends to reduce phosphorus loading to the lake and provide a timeframe
16 for that reduction. Based on a modeling analysis, phosphorus levels would meet drinking water
17 standards if they were equivalent to 85.5% fewer acres of 2003 development, or 94.6% fewer
18 acres than the total development allowed under 2003 zoning.

19
20 The City and County have collaborated on a contract with an engineering firm to aid in the
21 creation of the TMDL Response Plan and to determine how the jurisdictions can effectively
22 prove existing and proposed reductions.

23
24 The TMDL Response Plan will, in general, include all of the items in the Lake Whatcom
25 Reservoir Management Plan that the City and County are progressing on. In addition, the DOE
26 has indicated they will be providing phosphorus reduction credits for the infiltration of
27 stormwater from developed areas. Currently, infiltration is a Best Management Practice and is
28 the preferred standard for all new development.

29
30 The City of Bellingham, Whatcom County and the DOE must work together to develop the
31 Response Plan for meeting the TMDL requirements and state water quality standards. The plan
32 will be forwarded to the U.S. Environmental Protection Agency (EPA) for review. If the EPA
33 approves the plan, it will be required to be implemented and monitored for success.

34 35 36 **IV. COMPREHENSIVE PLAN GOALS AND POLICIES**

37 *(See Exhibit B for a full list of relevant goals and policies)*

38
39 The proposal reflects the intent of several goals and policies of the comprehensive plan. By
40 requiring Native Vegetation Protection Areas it reduces the destruction of natural features (LU-
41 129) and attempts to prioritize protection over treatment in managing the Lake Whatcom
42 Reservoir and its watershed (LU-132). The proposal will require low impact development
43 techniques for all new and redeveloped residential development in the Lake Whatcom Reservoir
44 Watershed (LU-139 and LU-140). The proposal will also ensure development impacts to the
45 lake's water quality from city properties are reduced and allow for the City to continue to strive to
46 provide a clean, healthy and safe drinking water source for its citizens.

47 48 49 **V. ANALYSIS**

50

1 All of this information leads to the ultimate conclusion that fairly drastic changes in land
2 development and land use are necessary to reach the goal of protecting and improving the
3 water quality of Lake Whatcom. Staff have provided below the main points of proposed
4 regulatory changes to be explored by the Planning Commission, City Council and the public. A
5 draft copy of proposed changes to the SBO and Stormwater Code are attached. This copy is
6 intended to be the starting point of the required public process for revising development
7 regulations and is believed to address some of the needed changes for development and
8 redevelopment of property within the watershed. It also begins the process of change for
9 existing development. These changes are also intended to more closely correspond with
10 watershed development regulations administered by Whatcom County and Sudden Valley, the
11 proposed Shoreline Master Program and DOE's Stormwater Manual.

12 13 **NEW DEVELOPMENT**

14
15 Although phosphorus inputs to the lake come from a number of sources, the proposed code
16 changes focus on the following: soil losses from land disturbance, increased runoff from
17 impervious surfaces, phosphorus producing land uses and the management of phosphorus-
18 containing substances and sources (fertilizer, pet waste, car soap, failing septic systems).

19
20 In order to limit the pathways by which phosphorus travels from the land to the lake, the
21 proposed code amendments focus on: limiting impervious surfaces, limiting pollution generating
22 surfaces (such as lawns); retaining and restoring a natural forested condition; infiltrating
23 stormwater on site; and other strategies.

24
25 Note that the emphasis on retaining/restoring the natural forested condition is based on the
26 recognition among scientists and regulators that this is the baseline to achieve. In other words,
27 mimicking the natural forested condition is what stormwater modeling is based on because it is
28 the desired functional level for stormwater management. Additionally, compliance with the Lake
29 Whatcom Final TMDL is specifically tied to the requirement that standard development areas be
30 modified to emulate the phosphorus outputs of a forested area.

31
32 Specific changes to the code include:

- 33
34
- 35 ➤ Additions to the Definitions section.
 - 36 ➤ Requiring a high percentage of the lot to function in the natural forested condition
 - 37 ➤ Requiring development plans to be based on the natural ability of the lot to retain
38 stormwater by conducting a pre-design site assessment.
 - 39 ➤ Significantly restricting impervious surfaces and pollution generating surfaces, such as
40 tradition lawns and landscaping areas.
 - 41 ➤ Requiring a fully-engineered stormwater management plan in most cases.
 - 42 ➤ Requiring the expertise of an International Society of Arboriculture (ISA)-certified
43 arborist, regarded as the expertise needed for assessing the Native Vegetation
44 Protection Area (NVPA).
 - 45 ➤ Physical and legal protection of native vegetation/natural forested condition through a
46 conservation easement or equivalent.
 - 47 ➤ Requirement to meet specs to protect critical root zones.
 - 48 ➤ Modification of the seasonal restrictions on earthwork from May 1st—September 30th to
49 June 1st –September 30th in order to avoid higher rates of precipitation in May when
50 construction is just beginning. The County may also soon be evaluating their allowed
construction periods.

- 1 ➤ Limiting land disturbance activities during the non-construction months that may
2 contribute to water quality degradation.

3
4 **EXISTING DEVELOPMENT**

5
6 Human activities alter natural watershed processes. For example, removing forest cover can
7 significantly reduce infiltration which results in increased surface flows during storm events. The
8 flooding that occurred in January 2009 demonstrated again this direct relationship. The loss of
9 forest canopy in developed areas leads to high runoff rates that cause erosion and result in
10 pollution loading. Instead of being captured by forest canopy, absorbed by healthy soils, or
11 otherwise infiltrated, the water sheet flows to the nearest drainage, causing significant erosion
12 and property damage.

13
14 Because the majority of developed land pre-dates stormwater regulations, the target of reducing
15 phosphorus should be on existing homes, roads, and other built features. Therefore, most
16 redevelopment will require substantial on-site stormwater management focusing on infiltration
17 and a reduction in pollution generating surfaces.

18
19 The Planning Commission should also explore to what degree existing development should be
20 required to conform to the new regulations when structures are accidentally destroyed. Staff has
21 proposed allowing complete reconstruction of a building that is non-conforming with regard to
22 impervious area limits when damaged by accidental causes. However, the Commission could
23 recommend that all new development, whether caused by accidental destruction or not, should
24 be required to conform to the new impervious and partially impervious surface limits as well as
25 new native vegetation protection area requirements.

26
27 Local experts in science and education are examining the best stormwater management
28 strategies to apply to existing development. An interlocal team of City, County, and WSU
29 Extension Service staff (and others) will launch a pilot project in 2009 in a sub-basin of the
30 watershed to study which combination of techniques will work to reduce runoff in developed
31 areas.

32
33 **STORMWATER INFILTRATION**

34
35 Infiltration and/or reduction of development flows must be expanded to encompass existing
36 development as an important component of the phosphorus reduction plan.

37
38 Reduction of flows from developed areas does not mean, however, that impervious surfaces
39 simply need to be infiltrated. It means that the total flow of water from impervious surfaces **and**
40 from other partially pervious areas such as lawns and landscaping must be reduced. National
41 studies show that two major sources of phosphorus are landscaped areas and roadways. In
42 addition, the roadway loading is generally found to be the result of the adjacent land uses to
43 those roadways.

44
45 Similarly, there is substantial evidence that natural forested areas help mitigate phosphorus
46 inputs through interruption and infiltration of stormwater. Therefore, maintaining and creating
47 naturally forested areas is an effective management action for phosphorus reduction.

48
49 In addition to source control and flow elimination for phosphorus removal, staff will continue to
50 look for ways to improve existing stormwater systems. New materials are being tested that are
51 proclaimed to greatly improve the efficiency of the City's media stormwater systems. Also,

1 retrofits to our larger stormwater treatment facilities are targeted for improvements. Both sand
2 filtration approved by DOE and newer rock plant filter methodology will be explored in the next
3 system retrofit.

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5 **ADDITIONAL MEASURES**

- 6
- 7 • Staff is currently working with a consultant on the economic reality of the creation and
8 implementation of a Purchase of Development Rights (PDR) program for the watershed.
- 9
- 10 • Modification of the boundaries of applicability for watershed development regulations.
11 Currently properties that do not drain into Basin One are regulated under the SBO.
- 12
- 13 • Restricting subdivisions and/or reducing the creation of additional lots through zoning
14 changes, which will be done during the 2009 update to the Silver Beach Neighborhood
15 Plan.
- 16 • Incentives such as; free technical assistance, monetary rebates, single family
17 stormwater retrofit programs, additional impervious surface credits, city sponsored lawn
18 removal projects and/or yard waste pickup programs should be explored to encourage
19 voluntary action for existing nonconforming properties.
- 20
- 21 • Continued support and funding of land acquisition and educational programs.
- 22
- 23 • Exploration of a watershed roadway retrofit program that utilizes Low Impact
24 Development strategies to treat stormwater, such as the recently completed Northshore
25 Dr / Pedestrian Improvement Project.
- 26
- 27 • A watershed development review team, including representatives from the Planning and
28 Building Services Divisions and Public Works Department, will be created to ensure
29 consistent review and application of the development standards are achieved and
30 inspectors are familiar with the required construction practices.
- 31

32
33 **VI. PUBLIC COMMENT**

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35 As part of the public review process, staff has meet with several community stakeholder groups
36 including the Silver Beach Neighborhood Association, People For Lake Whatcom, Building
37 Industry Association of Whatcom County, City of Bellingham Lake Whatcom Watershed
38 Advisory Board, and the Lake Whatcom Interjurisdictional Coordinating Team (ICT).

39
40 These meetings included presentations by staff and open dialogue on the proposed draft
41 changes to the Lake Whatcom Reservoir Regulatory Chapter. Staff analyzed the comments
42 received during these meetings and incorporated changes to the draft code where applicable.
43 For example, during a meeting with the Silver Beach Neighborhood Association it was noted
44 that if the stormwater for development was required to be fully infiltrated on-site then allowances
45 for additional impervious surface may be warranted. Changes to the allowed impervious surface
46 requirements have been proposed based on the degree of on-site stormwater mitigation. These
47 extended public outreach events allowed both staff and the stakeholder groups opportunities to
48 fully explore the effects of the proposed code changes.

1 Notice of this hearing was mailed to neighborhood representatives and associations and other
2 registered interested parties. Notice was also published in the Bellingham Herald and posted in
3 several locations within the watershed.
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6 **VII. STATE ENVIRONMENTAL POLICY ACT (SEPA)**
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8 A SEPA Determination of Non-Significance was issued by the City on February 24, 2009.
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11 **VIII. STAFF RECOMMENDATIONS**
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13 Scientific data continues to show a decline in the water quality of Lake Whatcom. Fairly drastic
14 changes in land development and land use are necessary to reach our goals of protecting and
15 improving the water quality of Lake Whatcom and to ensure the City meets the reduction targets
16 established by the Final TMDL study.
17

18 A phased work program including changes to watershed development standards, continued
19 support and implementation of the Lake Whatcom Management Program and the creation of a
20 Response Plan to the TMDL Study will help reduce the impacts of land use and development on
21 the water quality of Lake Whatcom and protect it into the future.
22

23 Staff recommends that the Planning Commission support the proposed changes to both the
24 Lake Whatcom Reservoir Regulatory Chapter and the Stormwater Ordinance. This will ensure
25 development impacts to the lake's water quality from city properties are reduced and allow for
26 the City to continue to strive to provide a clean, healthy and safe drinking water source for its
27 citizens.
28

29
30 **IX. LIST OF ATTACHMENTS**
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- 32
33 A. Draft Findings of Fact, Conclusions and Recommendations
34 B. Applicable Comprehensive Plan Goals and Policies
35 C. Draft Lake Whatcom Reservoir Regulatory Chapter
36 D. Draft Stormwater Ordinance
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Attachment A

**BELLINGHAM PLANNING COMMISSION FINDINGS OF FACT,
CONCLUSIONS, AND RECOMMENDATIONS**

MARCH 12, 2009

DRAFT FOR REVIEW

Note: the following Findings of Fact, Conclusions and Recommendations were prepared in draft form to support the staff recommendation. The findings can be adopted as written, or modified to support the final Planning Commission recommendation.

SUMMARY

Following the public hearing and deliberation on the proposed changes to both the Lake Whatcom Reservoir Regulatory Chapter and the Stormwater Ordinance, the Bellingham Planning Commission has determined that the proposed changes comply with, and will implement, the goals and policies of the Bellingham Comprehensive Plan and will ensure development impacts to Lake Whatcom's water quality from city properties are reduced and allow for the City to continue to strive to provide a clean, healthy and safe drinking water source for its citizens.

I. FINDINGS OF FACT

1. Proposal Description -

Amendments to both the Lake Whatcom Reservoir Regulatory Chapter (BMC 16.80) and the Stormwater Ordinance (BMC 15.42) in order to help the City meet the pollutant reduction targets established by the Department of Ecology's Lake Whatcom Watershed Total Phosphorus and Bacteria Total Maximum Daily Loads (TMDL) Water Quality Study Findings.

2. Background Information/Procedural History -

The Lake Whatcom Reservoir is the primary drinking water source for approximately 95,000 people in Whatcom County, including 82,000 served by the City of Bellingham.

Data shows that Lake Whatcom's water quality has been deteriorating for the last 20 years and continued deterioration in Lake Whatcom's water quality harms the health, safety, and welfare of the public.

Removing forest cover can significantly reduce infiltration which results in increased surface flows during storm events. The loss of forest canopy in developed areas leads to high runoff rates that cause erosion and result in pollution loading. Conversely, employing infiltration to manage stormwater either by retaining forest cover or providing an engineered system, can greatly reduce phosphorus inputs to the lake.

1998 - The Washington State Department of Ecology (DOE) listed Lake Whatcom as an impaired water body under section 303(d) of the federal Clean Water Act.

1
2 2002 - The lake is again listed under the same section of the Clean Water Act for additional
3 polluting substances. Standards not met now include; dissolved oxygen, total phosphorus as
4 well as several other parameters.
5

6 April 2008 - Western Washington University's Institute for Watershed Studies released its yearly
7 Lake Whatcom Monitoring Report. This report documents that the health and water quality of
8 the lake continue to decline.
9

10 April 2008 - The DOE released the draft Lake Whatcom Watershed Total Phosphorus and
11 Bacteria Total Maximum Daily Loads (TMDL) Water Quality Study Findings. These findings are
12 based on output from a watershed model and define the range of reductions to the total load of
13 phosphorus needed to meet state water quality standards.
14

15 May 19, 2008 - The City Council adopted an emergency interim ordinance establishing a
16 moratorium on the filing, acceptance, and processing of applications for divisions of land and
17 building permits within the City's portion of the Lake Whatcom watershed.
18

19 June 23, 2008 - The City Council adopted a second emergency interim ordinance modifying the
20 moratorium to include land disturbance activities exceeding 500 square feet and subject to the
21 City's Stormwater Ordinance (BMC 15.42).
22

23 September 16, 2008 - The City Council initiated the public review process for code changes to
24 the Lake Whatcom Reservoir Regulatory Chapter (BMC 16.80). These changes are intended to
25 reduce the impacts of land disturbing activities on water quality and are one component in the
26 City's response to the declining water quality of Lake Whatcom.
27

28 November 2008 - DOE releases the Final TMDL Study, which requires phosphorus levels to be
29 equivalent to 85.5% fewer acres of 2003 development, or 94.6% fewer acres than the total
30 development allowed under 2003 zoning.
31

32 March 12, 2009 - The Bellingham Planning Commission holds a public hearing on the proposal.
33

34 **3. Public Comment -** 35

36 Meetings with several community stakeholder groups, including; the Silver Beach Neighborhood
37 Association, People For Lake Whatcom, Building Industry Association of Whatcom County, City
38 of Bellingham Lake Whatcom Watershed Advisory Board, and the Lake Whatcom
39 Interjurisdictional Coordinating Team (ICT) have been conducted.
40

41 Public comment was received by the Bellingham Planning Commission on March 12, 2009.
42

43 **4. State Environmental Policy Act (SEPA) Determination -** 44

45 A SEPA determination of Non-Significance was issued by the City of Bellingham on February
46 24, 2009.
47

48 **5. Consistency with the Bellingham Comprehensive Plan** 49

50 Development regulations must be consistent with and carry out the goals and policies of the
51 Comprehensive Plan. The proposal reflects the intent of several goals and policies of the

1 comprehensive plan. By requiring Native Vegetation Protection Areas it reduces the destruction
2 of natural features (LU-129) and attempts to prioritize protection over treatment in managing the
3 Lake Whatcom Reservoir and its watershed (LU-132). The proposal will require low impact
4 development techniques for all new and redeveloped residential development in the Lake
5 Whatcom Reservoir Watershed (LU-139 and LU-140). The proposal will also ensure
6 development impacts to the lake's water quality from city properties are reduced and allow for
7 the City to continue to strive to provide a clean, healthy and safe drinking water source for its
8 citizens.

9
10 Relevant Comprehensive Plan Goals and Policies were included in the Planning Commission's
11 deliberation of the proposal and reflected in the staff report.
12
13

14 II. CONCLUSIONS

15
16 Based on the staff report and the information presented at the public hearing, the Planning
17 Commission concludes:

- 18
19 1. The proposed amendments to both the Lake Whatcom Reservoir Regulatory Chapter (BMC
20 16.80) and Stormwater Ordinance (BMC 15.42) are consistent with the goals and policies of
21 the Bellingham Comprehensive Plan.
22
- 23 2. The proposed amendments to BMC 16.80 and 15.42 will help the City achieve the pollutant
24 loading goals established by the Department of Ecology's Lake Whatcom Watershed Total
25 Phosphorus and Bacteria Total Maximum Daily Loads (TMDL) Water Quality Study
26 Findings.
27
- 28 3. Adoption and implementation of the proposed amendments to BMC 16.80 and 15.42 will
29 reduce the development impacts to the lake's water quality from city properties and allow for
30 the City to continue to strive to provide a clean, healthy and safe drinking water source for
31 its citizens.
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35 III. RECOMMENDATIONS

36
37 Based on the findings and conclusions, the Bellingham Planning Commission recommends that
38 the City Council approve the proposed changes to the Lake Whatcom Reservoir Regulatory
39 Chapter (BMC 16.80) and the Stormwater Ordinance (BMC 15.42).
40

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42 **ADOPTED** this _____ day of _____, 2009.
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45 _____
46 *Planning Commission Chairperson*
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48

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50 **ATTEST:** _____

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Recording Secretary

APPROVED AS TO FORM:

City Attorney

ATTACHMENT B

APPLICABLE COMPREHENSIVE PLAN GOALS AND POLICIES

Part 5. Framework Goals – Lake Whatcom Reservoir

FGLW – 1 Protect the quality of the water in the Lake Whatcom Reservoir to ensure long-term sustainability of the Lake as a drinking water reservoir.

FGLW – 2 Reduce the development potential in the Lake Whatcom Reservoir Watershed.

GF Infill Strategy, Action Step 22: Review the transfer of development rights (TDR) program in terms of incentives, penalties, sending areas and receiving areas – The County has implemented a TDR program designed to alleviate development pressure in the Lake Whatcom watershed. It may be time to expand that program, alleviating pressure to develop in the rural countryside and encouraging the transfer of development intensity to areas designated as urban villages in the UGA or within the city limits. The City and County may wish to explore making TDR credits a mandatory component to permit increased density within urban villages, similar to the County's current program for provisional density increased in designated TDR receiving areas.

Visions for Bellingham Goal Statements, Section 6 – Community Health, Welfare and Safety:

VB 46 – Bellingham's water quality is improved through the pursuit of goals expressed in the Joint Lake Whatcom Watershed Agreement with the County and Water District #10, and through continued efforts to control stormwater quantity and quality.

Visions for Bellingham Goal Statements, Section 8 – Environment and Natural Resources:

VB 57 – Citizens and property owners join forces to protect the quality of Lake Whatcom, its watershed, the City's other lakes and creeks and Bellingham Bay. Through community education, regulation, performance based development standards, and public and private cooperation, the community as a whole supports protection of these natural resources as a priority.

Section N. Environmental and Lake Whatcom Reservoir Watershed Policies

LU - 127 Shorelines, wetlands, and steep hillsides should be protected or impacts mitigated in accordance with adopted standards.

LU - 128 Destruction of significant natural features should be minimized.

LU - 129 Water and air quality should be maintained and/or enhanced through the development and/or enforcement of environmental regulations.

LU - 130 Develop more thorough environmental studies of sensitive areas and specify potential mitigating measures in the neighborhood plans, thereby reducing the need for extensive environmental review of projects and reliance on SEPA negotiations for routine permits.

LU - 131 Support the ongoing goals, policies and adopted work program of the Lake Whatcom Reservoir Interjurisdictional Coordinating Team.

LU - 132 Prioritize protection over treatment in managing the Lake Whatcom Reservoir and its watershed. Management actions shall reflect a long term view of replacement or treatment costs.

LU - 133 Ensure that opportunities for public comment and participation are provided in policy and management program development, and to promote public awareness and responsible individual actions.

LU - 134 Promote learning, research, and information opportunities which better our understanding of the watershed system, the impacts of activities, and the benefits and potentials of policies implemented.

LU - 135 Implement programs regulations, and/or incentives that result in land use practices by watershed residents and users that protect the water quality of the Lake Whatcom Reservoir to the fullest extent possible.

LU - 136 Work with Whatcom County, the Lake Whatcom Water and Sewer District, the Sudden Valley Association, and individual property owners to purchase land, rezone properties, consolidate lots, transfer development rights, and educate the public about the benefits of reducing potential development in the Lake Whatcom Reservoir Watershed.

LU 137 Undeveloped portions of the Geneva UGA that are in the Lake Whatcom Watershed should be removed from Bellingham's UGA.

LU - 138 Designate receiving zones for development rights transferred from the Lake Whatcom Reservoir Watershed in areas of the City appropriate for higher densities such as the urban centers.

LU - 139 Implement "low impact development" techniques for all new residential development and infrastructure projects in the Lake Whatcom Reservoir Watershed.

LU - 140 Encourage existing residentially developed areas in the Lake Whatcom Reservoir Watershed to implement "low impact development" techniques where possible.

LU - 141 Encourage and work with Whatcom County to adopt regulations that restrict or prohibit land use practices and activities that cumulatively impact water quality.

LU - 142 Update and administer regulations that protect environmentally sensitive (or “critical”) areas.

LU - 143 Establish land uses, development densities, impervious surface coverages and stormwater standards that minimizes flooding, streambank erosion, and loss of aquatic and other habitat.

LU - 144 Bellingham recognizes the requirement for, and substantial benefit of, incorporating the use of “best available science” in the overall management of critical areas and natural resource protection.

ATTACHMENT C

DRAFT LAKE WHATCOM RESERVOIR REGULATORY CHAPTER