

Concerned Neighbors of Lake Samish
C/o Mark Herrenkohl
321 Summerland Road
Bellingham, WA 98229

April 12, 2009

Tyler R. Schroeder, Current Planning Supervisor
Whatcom County Planning & Development Services
5280 Northwest Road, Suite B
Bellingham, WA 98226-9097

Subject: Additional Comments and Concerns
Regarding LSS2000-00011-Sleepy Hollow, (originally submitted on November 27, 2000), Shoreline Substantial Development, SHR2003-00007, and associated SEPA Appeal, APL2001-00009

Dear Mr. Schroeder:

The Concerned Neighbors of Lake Samish (CNLS) would like to provide additional comments and concerns on the proposed preliminary long subdivision referred to as Sleepy Hollow in response to Whatcom County's re-notice dated March 30, 2009. In addition to extensive comments and information presented in our 2001 appeal (Appeal No. 2001-0009) opposing the County's mitigated determination of nonsignificance (MDNS) for the Sleepy Hollow subdivision, we have four primary areas of concern to be considered by the County in their review of the proposed development.

- 1) The SEPA appeal hearing on January 20, 2004 was continued and any action on Sleepy Hollow is subject to this continuation.

This hearing was scheduled to be continued three weeks after the original hearing to allow time for the County and developer to provide information requested by the Hearing Examiner. However, the County and developer postponed the hearing indefinitely and after more than 5 years has not been rescheduled. We would like to make note that the Hearing Examiner had a number of concerns and requested a significant amount of follow-up information from the County and developer. The County should review the transcript of the meeting to make sure that it responds thoroughly to all of the concerns and questions addressed by the Hearing Examiner.

Additionally, we would like to remind the County that a number of concerns raised in our appeal of the MDNS were yet to be discussed at the hearing. These include increased traffic concerns, water quality and quantity issues, slope and soil conditions, adequate water flow from Friday Creek and concerns regarding the increased risks to pedestrians, runners and bicyclists posed by the increased traffic associated with the Sleepy Hollow development.

- 2) Since 2004, there have been many changed conditions that should be considered in assessing the potential impact of this development on the Lake Samish watershed.

Fish populations in the Samish watershed (including Lake Samish and Friday Creek) have continued to decline and are more threatened than ever.

The health of Lake Samish continues to decline, as concluded in the recent Water Monitoring Report (2005-2008) by Dr. Robin Matthews of Western Washington University. Phosphorus levels have become elevated because of increased development and the water quality has decreased resulting in algae blooms and extremely low levels of oxygen in parts of the lake. Additionally, the process of applying for the Federal Clean Water Act 303D listing as an impaired water body has been initiated because of the high levels of phosphorus and fecal coliform and low levels of dissolved oxygen observed in the lake.

In 2003, the property in consideration for the Sleepy Hollow development, as well as surrounding property, was downzoned to R5 (one house per five acres) based on the pattern of land use in 1990 and to be in compliance with the Growth Management Act. The same zoning should be applied to this development.

In 2004, high levels of mercury were found in fish caught in Lake Samish (the highest of any sample tested in the State of Washington). Again, the impact of increased development is suspected. The Sleepy Hollow development will exacerbate this problem.

In 2005, the Lake Samish Water Resource Protection Overlay District was put in place by the County requiring increased protections for the lake from any future developments. The current configuration of the development is grossly out of compliance with many of the Overlay's requirements.

In 2008, the County's Shoreline Management Plan was initiated strengthening protections for lakes and shorelines. One of the impacts on the Sleepy Hollow development should be the requirement for increased buffers for the three streams flowing through the development, which is also consistent with requirements under the Critical Area Ordinance for the watershed.

- 3) It is our understanding that the Washington State Department of Health and the Whatcom County Department of Health (DOH) no longer permit Group A water systems to use surface water as a water source. Moreover, in 2006 DOH provided a significant number of comments and requirements on the project but has not received adequate responses from the developer. Consequently, the Sleepy Hollow development should not be allowed to use water from Lake Samish as the source of their water. If the development is allowed to use Lake Samish as a water source it will result in a 25% increase in the amount of water drawn from the lake for household use.

- 4) The CNLS has continued to monitor the discharge of water during the summer from Lake Samish into Friday Creek and it continues to fall short of the 2 cubic foot per second flow rate required by the Washington Fish and Wildlife Department for minimal protection of endangered fish stocks. These low levels were also noted in our SEPA appeal in 2001. Sleepy Hollow's use of Lake Samish water would accelerate this decline in flows.
- 5) There is a question of whether the water rights issued to Sleepy Hollow remain valid. This should be further investigated by the County before any permits are issued.

On behalf of residents and members of the CNLS, we appreciate your consideration of these comments as you move forward in your review of the proposed Sleepy Hollow development.

Sincerely,



Steven Harper, Vice President



Mark Herenkohl, President

Our Mission Statement:

We are a non-profit corporation whose purpose is to educate citizens of issues which may affect the health and water quality of the Lake, to ensure that development in the area is compatible with the existing unique character of the community and to see that development is in strict compliance with applicable rules and regulations.