



SEPA Distribution List
SEP2021-00106
Date of Issuance: December 17, 2021

Please review this determination. If you have further comments or questions, phone the responsible official at (360) 778-5900. Please submit your response by the comment date noted on the attached notice of determination.

WA State Department of Archaeology and Historic Preservation via email
Stephanie Jolivette, stephanie.jolivette@dahp.wa.gov
SEPA@dahp.wa.gov

SEPA Unit, WA State Department of Ecology, Olympia via email
sepaunit@ecy.wa.gov

WA State Department of Fish and Wildlife
Wendy Cole (Lake Whatcom, Samish River watersheds) - Wendy.Cole@dfw.wa.gov
Joel Ingram (All Other Freshwater) - Joel.Ingram@dfw.wa.gov
Robert Warinner (Marine) - Robert.Warinner@dfw.wa.gov

WA State Department of Natural Resources via email
Rochelle Goss, sepacenter@dnr.wa.gov
Brenda Werden, Brenda.werden@dnr.wa.gov

Lummi Nation Natural Resources
Merle Jefferson, Sr. via email - merlej@lummi-nsn.gov
Tamela Smart - tamelas@lummi-nsn.gov

Nooksack Indian Tribe
George Swanaset, JR via email - george.swanasetjr@nooksack-nsn.gov
Trevor Delgado via email - tdelgado@nooksack-nsn.gov

Skagit River System Cooperative
Nora Kammer via email - nkammer@skagitcoop.org

City of Bellingham
Kurt Nabbeffeld via email - knabbefeld@cob.org
Brent Baldwin via email - bbaldwin@cob.org
Clare Fogelsong via email - cfogelsong@cob.org

City of Blaine
Stacie Pratschner, AICP via email - spratschner@cityofblaine.com

City of Ferndale
Michael Cerbone via email - michaelcerbone@cityofferndale.org

Applicant
Whatcom County c/o Cliff Strong via email - CStrong@co.whatcom.wa.us

WHATCOM COUNTY
Planning & Development Services
5280 Northwest Drive
Bellingham, WA 98226-9097
360-778-5900, TTY 800-833-6384
360-778-5901 Fax



Mark Personius, AICP
Director

SEPA Determination of Nonsignificance (DNS)

File: SEP2021-00106

Project Description: Proposed amendments to WCC Titles 20 and 22. This is the County's annual "code scrub", wherein staff proposes amendments to clarify code, fix inconsistencies and grammar, and occasionally modify minor policies.

Proponent: Whatcom County

Address and Parcel #: Countywide

Lead Agency: Whatcom County Planning & Development Services

Zoning: All Zones **Comp Plan:** All land use designations

Shoreline Jurisdiction: All shoreline designations

The lead agency for this proposal has determined that no significant adverse environmental impacts are likely. This proposal will also be reviewed for compliance with all applicable Whatcom County Codes (WCC) which regulates development activities, including but not limited to: WCC 15 – Buildings and Construction, WCC 16.16 – Critical Areas, WCC 17 – Flood Damage Prevention, WCC 20 – Zoning, WCC 21 – Land Division Regulations, WCC 23 – Shoreline Management Program, the Whatcom County Development Standards and/or the Washington State Stormwater Manual. Mitigation may be a requirement of Whatcom County Code. Pursuant to RCW 43.21C.030(2)(c), an environmental impact statement (EIS) is not required. This decision was made following review of a completed SEPA environmental checklist and other information on file with the lead agency. This information is available to the public on request.

Pursuant to WAC 197-11-340(2), the lead agency will not act on this proposal for 14 days from the date of issuance indicated below. Comments must be received by 4:00 p.m. on January 3, 2021 and should be sent to: Cliff Strong via email at CStrong@co.whatcom.wa.us

Responsible Official: Mark Personius, mpersoni@co.whatcom.wa.us

Title: Director

Telephone: 360-778-5937

Address: 5280 Northwest Drive
Bellingham, WA 98226

Date of Issuance: December 17, 2021

Signature: _____

A handwritten signature in black ink, appearing to be "SR", written over a horizontal line.

Steve Roberge, Assistant Director
signing for Mark Personius

An aggrieved agency or person may appeal this determination to the Whatcom County Hearing Examiner. Application for appeal must be filed on a form provided by and submitted to the Whatcom County Current Planning Division located at 5280 Northwest Drive, Bellingham, WA 98226, during the ten days following the comment period, concluding January 13, 2021.

You should be prepared to make a specific factual objection. Contact Whatcom County Current Planning Division for information about the procedures for SEPA appeals.

WHATCOM COUNTY
Planning & Development Services
5280 Northwest Drive
Bellingham, WA 98226-9097
360-778-5900, TTY 800-833-6384
360-778-5901 Fax



Mark Personius, AICP
Director

**SEPA Determination of Nonsignificance (DNS)
Legal Notice**

To be published one time only on: **December 17, 2021**

CHARGE TO: Whatcom County Planning & Development Services
5280 Northwest Drive
Bellingham, Washington 98226
Acct #AP25580

**WHATCOM COUNTY GIVES PUBLIC NOTICE THAT THE FOLLOWING SEPA
THRESHOLD DETERMINATION OF NON-SIGNIFICANCE (DNS) HAS BEEN
ISSUED TODAY SUBJECT TO THE 14 DAY COMMENT PERIOD
CONCLUDING ON JANUARY 3, 2022.**

File: SEP2021-00106

Project Description: Proposed amendments to WCC Titles 20 and 22. This is the County's annual "code scrub", wherein staff proposes amendments to clarify code, fix inconsistencies and grammar, and occasionally modify minor policies.

Proponent: Whatcom County

Address and Parcel #: Countywide

Lead Agency: Whatcom County Planning & Development Services

Zoning: All Zones

Comp Plan: All Land Use Designations

Shoreline Jurisdiction: All Shoreline Designations

ANY PERSON OR AGENCY MAY APPEAL THE COUNTY'S COMPLIANCE WITH WAC 197-11 BY FILING AN APPEAL WITH THE WHATCOM COUNTY PLANNING AND DEVELOPMENT SERVICES LOCATED AT 5280 NORTHWEST DRIVE, BELLINGHAM, WA 98226. APPEALS MUST BE MADE WITHIN 10 DAYS AFTER THE END OF THE COMMENT PERIOD.



SEP 2021 - 00106

SEPA Environmental Checklist

Purpose of Checklist:

Governmental agencies use this checklist to help determine whether the environmental impacts of your proposal are significant. This information is also helpful to determine if available avoidance, minimization or compensatory mitigation measures will address the probable significant impacts or if an environmental impact statement will be prepared to further analyze the proposal.

Instructions for Applicants:

This environmental checklist asks you to describe some basic information about your proposal. Please answer each question accurately and carefully, to the best of your knowledge. You may need to consult with an agency specialist or private consultant for some questions. You may use "not applicable" or "does not apply" only when you can explain why it does not apply and not when the answer is unknown. You may also attach or incorporate by reference additional studies reports. Complete and accurate answers to these questions often avoid delays with the SEPA process as well as later in the decision-making process.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Use of Checklist for Non-Project Proposals:

For non-project proposals (such as ordinances, regulations, plans and programs), complete the applicable parts of sections A and B plus the Supplemental Sheet for Non-project Actions (Part C). Please completely answer all questions that apply and note that the words "project", "applicant", and "property or site" should be read as "proposal", "proponent" and "affected geographic area", respectively. The lead agency may exclude (for non-projects) questions in Part B – Environmental Elements that do not contribute meaningfully to the analysis of the proposal.

A Background

- 1 Name of proposed project, if applicable:

- 2 Name of applicant:
Applicant phone number:
Applicant address:
City, State, Zip or Postal Code:
Applicant Email address:

- 3 Contact name:
Contact phone number:
Contact address:
City, State, Zip or Postal Code:
Contact Email address:

- 4 Date checklist prepared:

- 5 Agency requesting checklist:

- 6 Proposed timing or schedule (including phasing, if applicable):

- 7 Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? Yes No
If yes, explain:

- 8 List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal:

- 9 Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? Yes No
If yes, explain.

- 10 List any government approvals or permits that will be needed for your proposal, if known.
- 11 Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)
- 12 Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

B Environmental Elements

NOTE: Section B has been filled out to aid SEPA review but is not required per WAC 197-11-315(1) and Whatcom County Planning and Development Services Policy PL1-83-001Z.

1 Earth

RE

a. General description of the site:

- Flat
- Rolling
- Hilly
- Steep Slopes
- Mountainous
- Other

b. What is the steepest slope on the site (approximate percent slope)?

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils.

d. Are there surface indications or history of unstable soils in the immediate vicinity? Yes No

If so, describe.

e. Describe the purpose, type, total area, approximate quantities and total affected area of any filling excavation or grading proposed.

Indicate source of fill.

Indicate where excavation material is going.

- f. Could erosion occur as a result of clearing, construction, or use?
Yes No

If so, generally describe.

- g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

- h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

2. Air

- a. What types of emissions to the air would result from the proposal during construction, operation and maintenance when the project is completed (i.e., dust, automobile, odors, or industrial wood smoke)?

If any, generally describe and give approximate quantities if known.

- b. Are there any off-site sources of emissions or odor that may affect your proposal? Yes No

If so, generally describe.

- c. Proposed measures to reduce or control emissions or other impacts to air, if any:

3. Water

a. Surface:

- (1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? Yes No

If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

- (2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? Yes No

If yes, please describe and attach available plans.

- (3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected.

Indicate the source of fill material.

- (4) Will the proposal require surface water withdrawals or diversions? Yes No

Give general description, purpose, and approximate quantities if known.

Does the proposal lie within a 100-year floodplain?

Yes No

If so, note location on the site plan.

- (5) Does the proposal involve any discharges of waste materials to surface waters?

Yes No

If so, describe the type of waste and anticipated volume of discharge

b. Ground Water:

- (1) Will ground water be withdrawn from a well for drinking water or other purposes? Yes No

If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well. Will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known.

- (2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals.....; agricultural; etc.). Describe the general size of the system, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

c. Water runoff (including stormwater):

- (1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known).

Where will this water flow?

Will this water flow into other waters? Yes No

If so, describe.

(2) Could waste materials enter ground or surface waters?

Yes No

If so, generally describe.

(3) Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site: Yes No

If so, describe.

d. Proposed measures to reduce or control surface, ground, and runoff water impacts, if any:

4 Plants

a. Check types of vegetation found on the site:

- Deciduous tree: alder, maple, aspen, other
- Evergreen tree: fir, cedar, pine, other
- Shrubs
- Grass
- Pasture
- Crop or grain
- Orchards, vineyards or other permanent crops
- Wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other
- Water plants: water lily, eelgrass, milfoil, other
- Other types of vegetation

- b. What kind and amount of vegetation will be removed or altered?

- c. List threatened or endangered species known to be on or near the site.

- d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

- e. List all noxious weeds and invasive species known to be on or near the site.

5. Animals

- a. Check any birds and animals, which have been observed on or near the site or are known to be on or near the site:

Birds:

- | | |
|---------------------------------|-------------------------------------|
| <input type="checkbox"/> Hawk, | <input type="checkbox"/> Heron, |
| <input type="checkbox"/> Eagle, | <input type="checkbox"/> Songbirds; |
| <input type="checkbox"/> Other: | |

Mammals:

- | | |
|---------------------------------|----------------------------------|
| <input type="checkbox"/> Deer, | <input type="checkbox"/> Bear, |
| <input type="checkbox"/> Elk, | <input type="checkbox"/> Beaver; |
| <input type="checkbox"/> Other: | |

Fish:

- | | |
|-------------------------------------|-----------------------------------|
| <input type="checkbox"/> Bass, | <input type="checkbox"/> Salmon, |
| <input type="checkbox"/> Trout, | <input type="checkbox"/> Herring, |
| <input type="checkbox"/> Shellfish; | <input type="checkbox"/> Other: |

- b. List any threatened or endangered species known to be on or near the site.

- c. Is the site part of a migration route? Yes No

If so, explain.

- d. Proposed measures to preserve or enhance wildlife, if any:

- e. List any invasive species known to be on or near site.

6. Energy and Natural Resources

- a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.

- b. Would your project affect the potential use of solar energy by adjacent properties? Yes No

If so, generally describe.

- c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:

7. Environmental Health

- a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste that could occur as a result of this proposal? Yes No

If so, describe.

- (1) Describe any known or possible contamination at the site from present or past uses.

- (2) Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity.

- (3) Describe any toxic or hazardous chemicals that might be stored, used, or produced during the projects development or construction, or at any time during the operating life of the project.

- (4) Describe special emergency services that might be required.

- (5) Proposed measure to reduce or control environmental health hazards, if any:

b. Noise

- (1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?

- (2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.

- (3) Proposed measures to reduce or control noise impacts, if any:

8 Land and Shoreline Use

a. What is the current use of the site and adjacent properties?

Will the proposal affect current land uses on nearby or adjacent properties? Yes No

If so, describe.

b. Has the project site been used as working farmlands or working forest lands? Yes No

If so, describe.

How much agriculture or forest land of long-term commercial significance will be converted to other uses as a result of the proposal, if any?

If resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to non-farm or non-forest use?

- (1) Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling and harvesting? Yes No

If so, how:

c. Describe any structures on the site.

- d. Will any structures be demolished? Yes No
If so, what?
- e. What is the current zoning classification of the site?
- f. What is the current comprehensive plan designation of the site?
- g. If applicable, what is the current shoreline master program designation of the site?
- h. Has any part of the site been classified as a critical area by the city or county? Yes No
If so, specify.
- i. Approximately how many people would reside or work in the completed project?
- j. Approximately how many people would the completed project displace?
- k. Proposed measures to avoid or reduce displacement impacts, if any:
- l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:
- m. Proposed measures to ensure the proposal is compatible with nearby agricultural and forest lands of long-term commercial significance, if any?

9 Housing

- a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.

- High
 Middle
 Low-income

- b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.

- High
 Middle
 Low-income

- c. Proposed measures to reduce or control housing impacts, if any:

10 Aesthetics

- a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?

- b. What views in the immediate vicinity would be altered or obstructed?

- c. Proposed measures to reduce or control aesthetic impacts, if any:

11 Light and Glare

- a. What type of light or glare will the proposal produce? What time of day would it mainly occur?

- b. Could light or glare from the finished project be a safety hazard or interfere with views?

- c. What existing off-site sources of light or glare may affect your proposal?

- d. Proposed measures to reduce or control light and glare impacts, if any:

12 Recreation

- a. What designated and informal recreational opportunities are in the immediate vicinity?

- b. Would the proposed project displace any existing recreational uses? If so, describe.

- c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

13 Historic and Cultural Preservation

- a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state or local preservation registers located on or near the site? Yes No
If so, specifically describe.

- b. Are there any landmarks, features, or other evidence of Indian, historic use or occupation, this may include human burials or old cemeteries? Yes No
Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Yes No
Please list any professional studies conducted at the site to identify such resources.

- c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples: Include consultation with tribes and the Department of Archeology and Historic Preservation, archaeological surveys, historic maps, GIS data, etc.

- d. Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.

14 Transportation

- a. Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plan, if any.

- b. Is site or geographic area currently served by public transit?
Yes No
If not, what is the approximate distance to the nearest transit stop?

- c. How many parking spaces would the completed project have? How many would the project eliminate?

- d. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle or state transportation facilities, not including driveways? Yes No
If so, generally describe (indicate whether public or private).

e. Will the project use (or occur in the immediate vicinity of)

- Water,
 - Rail, or
 - Air transportation?
- If so, generally describe.

f. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and non-passenger vehicles). What data or transportation models were used to make these estimates?

g. Proposed measures to reduce or control transportation impacts, if any:

15 Public Services

a. Would the project result in an increased need for public services (for example: fire protection, police protection, health care, schools, other)?

Yes No

If so, generally describe.

b. Proposed measures to reduce or control direct impacts on public services, if any.

16 Utilities

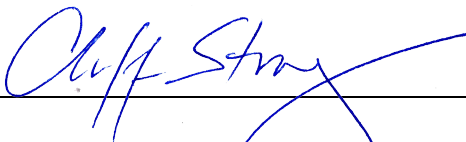
a. Check utilities currently available at the site:

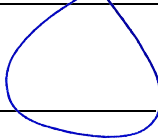
- | | |
|---|--|
| <input type="checkbox"/> Electricity, | <input type="checkbox"/> Natural gas, |
| <input type="checkbox"/> Water, | <input type="checkbox"/> Refuse service, |
| <input type="checkbox"/> Telephone, | <input type="checkbox"/> Sanitary sewer, |
| <input type="checkbox"/> Septic system, | <input type="checkbox"/> Other |

- b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

Signature

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature: 

Date Submitted: 12/10/2021 

FOR OFFICE USE ONLY

Reviewed by Whatcom County Planning & Development Services Staff

, Robert Eckroth
Staff Signature

12/13/2021
Date

C Supplemental Sheet for Non-project Actions

(It is not necessary to use this sheet for project actions)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment. When answering these questions, be aware of the extent the proposal or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

- 1 How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?

Proposed measures to avoid or reduce such increases are:

2. How would the proposal be likely to affect plants, animals, fish, or marine life?

Proposed measures to protect or conserve plants, animals, fish, or marine life are:

3. How would the proposal be likely to deplete energy or natural resources?

Proposed measures to protect or conserve energy and natural resources are:

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?

Proposed measures to protect such resources or to avoid or reduce impacts are:

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

Proposed measures to avoid or reduce shoreline and land use impacts are:

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

Proposed measures to reduce or respond to such demand(s) are:

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

**Whatcom County
Planning & Development Services
Staff Report**

Miscellaneous Code Amendments 2021

I. Background Information

File # PLN2021-00006

File Name: Miscellaneous Code Amendments 2021

Applicants: Whatcom County Planning and Development Services (PDS)

Summary of Request: Proposed amendments to WCC Titles 20 (Zoning) and 22 (Land Use and Development). This is an annual “code scrub,” wherein staff proposes amendments to clarify code, fix inconsistencies and grammar, and modify certain policies to a small degree.

Location: Countywide.

Staff Recommendation: Approve. The amendments are necessary to add clarity to development regulations and procedures, to keep the code up to date, and to fix some inconsistencies.

Background: Planning and Development Services annually proposes a series of code amendments to improve unclear wording or procedures, or to correct errors or outdated text. This year’s 8 proposed code amendments include such items as well as a one proposed policy change.

II. Code Amendments

The proposed code amendments are found in Exhibit A. Please refer to that attachment; explanations are provided therein.

III. Comprehensive Plan Evaluation

The proposed amendments are consistent with Comprehensive Plan’s Goal 2D to “Refine the regulatory system to ensure accomplishment of desired land use goals in a fair and equitable manner.”

IV. Proposed Findings of Fact and Reasons for Action

Staff recommends the Planning Commission adopt the following findings of fact and reasons for action:

1. Whatcom County Planning and Development Services has submitted an application to make various amendments to the Whatcom County Code (WCC) to make corrections, updates, and clarifications.
2. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on X, 2021.
3. Notice of the subject amendment was submitted to the Washington State Department of Commerce on X, 2021, for their 60-day review. No comments were received.

Comment [CES1]: Date

Comment [CES2]: Date

4. The Planning Commission held a duly noticed public hearing on the proposed amendments on X, 2021.
5. The County Council held a duly noticed public hearing on the proposed amendments on X.
6. The amendments are consistent with Comprehensive Plan Policy Goal 2D to “refine the regulatory system to ensure accomplishment of desired land use goals in a fair and equitable manner.”
7. In reference to Exhibit A, Amendment No. 1: The proposed amendments to WCC 20.04.035 only clean up outdated references to certain County departments and divisions.
8. In reference to Exhibit A, Amendment No. 2: The proposed amendments to WCC 20.38.060 only fix grammar.
9. In reference to Exhibit A, Amendment No. 3: Unlike in other districts the existing lot coverage section of the Rural Forestry district contains both lot coverage rules *and* forestland retention rules. The proposed amendments to WCC 20.42.450 and addition of 20.42.455 would split these concepts into separate sections. Additionally, the current forestland protection regulation allows the 20% limit to be exceeded through a Conditional Use Permit (CUP), which worked fine in the past for the forestry industry when it was more prominent. However as the forestry industry subsidizes more and more houses are being built in this district, and builders are using the CUP process to clear more forest so as to obtain hilltop views, contrary to the intent of this district. Changing the process for exceeding the 20% clearing limit would require that such applicants show a hardship for doing so (which in some instances may be warranted), which is not a CUP criteria.
10. In reference to Exhibit A, Amendment No. 4: The amendments to WCC 20.22.662, 20.24.652, 20.32.652, 20.34.652, 20.36.652, 20.37.651, 20.40.662, 20.42.652, and 20.43.662 would make the mineral lands disclosure requirement of 500 (rather than 300) feet consistent with WCC 14.06.030(B) (Mineral Resource Land – Disclosure), a change Council made in 2003 (ORD2003-061). Though Council updated that section, the revised distance was not carried through to the language in the individual districts, creating an inconsistency. These amendments would rectify that.
11. In reference to Exhibit A, Amendment No. 5: The amendment to WCC 20.36.156, 20.40.165, 20.42.157, 20.51.101, 20.59.201, 20.61.051, 20.62.155, 20.66.082, 20.71.221, 20.72.154, and 20.72.204, and the addition of 20.97.004 would standardize the language used for kennels and accessory kennels.
12. In reference to Exhibit A, Amendment No. 6: In 2009 via Ord. 2009-034, the Council amended the definitions of and standards for the various types of childcare centers the County allows, and adopted new definitions. However, the previous (then existing) definitions were not deleted. Additionally, Ord. 2009-034 designated family day care homes as an accessory use (in the 9 zones where they were allowed), but failed to remove them as permitted uses, so now they’re listed as both in 5 of those zones. Thus, staff proposes to delete family day care homes as a permitted in those 5 zones, leaving them as an accessory use. Doing this will not change in what districts family day care homes are allowed as an accessory use, as they would still be listed as such in the UR, URM, UR-MX, RR-I, R, TZ, AG, NC, and RGC districts. The deletion of 20.20.059, 20.22.057, 20.24.057, 20.37.056, 20.40.057, and 20.97.052.1 would clean up these inconsistencies.
13. In reference to Exhibit A, Amendment No. 7: The amendments to WCC 20.40.254 clarify which general standards apply only to agricultural short plats vs. agricultural boundary line adjustments.
14. In reference to Exhibit A, Amendment No. 8: The amendment to WCC 22.05.100(3) clarifies the timeline for applicants to respond to a Notice of Additional Requirements.

Comment [CES3]: Date

Comment [CES4]: Date

V. Proposed Conclusions

1. The amendments are the public interest.
2. The amendments are consistent with the Whatcom County Comprehensive Plan.

VI. Recommendation

Planning and Development Services recommends the Planning Commission forward the proposed amendments to the County Council with a recommendation of approval.

Attachments

1. Exhibit A – Proposed Code Amendments

Exhibit A: Proposed Miscellaneous Code Amendments 2021

WCC TITLE 20 (ZONING)

1) Clean-up of Department & Division Names

This is just clean-up of department and division names.

Chapter 20.04 General Provisions

20.04.035 Administrative responsibilities.

~~The land use division of t~~he ~~Department of p~~lanning and ~~d~~Development ~~s~~Services ~~department~~ is responsible for the administration of this ~~t~~itle. ~~The division, and~~ shall act as a coordinating agent to ensure that the regulatory process is expeditious. ~~In so doing, the Department and~~ shall recognize input provided by other departments ~~and divisions~~ having appropriate expertise, including: ~~the Public Works' division of e~~ngineering ~~Services division~~ for ~~solid waste,~~ road, drainage, and land alteration; the ~~f~~ire ~~m~~arshal for fire-related issues; the Whatcom County ~~h~~Health ~~d~~epartment for domestic water, waste disposal, ~~solid waste~~, and noise; and the ~~Department's P~~lanning ~~d~~ivision for land use and general site design. All ~~County~~ departments ~~and divisions of county government~~ shall cooperate fully ~~with the land use division~~ in the exercise of their duties relative to land use controls and regulations.

2) Habitable v. Inhabitable

This is just a grammatical change. Though “habitable” and “inhabitable” mean the same thing, “habitable” is used more commonly in the code and permitting staff are more used to it. Therefore staff would like to exchange the terms in the below section.

Chapter 20.38 Agriculture Protection Overlay

20.38.060 Development and use standards.

Subdivisions or segregations for nonagricultural uses shall be clustered. Development on all parcels subject to this section shall follow the requirements below:

...

- (7) Any ~~in~~habitable structure within the cluster subdivision shall be set back a minimum of 100 feet, and any accessory or other non-~~in~~habitable structures shall be set back at least 30 feet, ~~from the~~ property line of any parcel that is an APO reserve tract or designated or taxed for agricultural purposes; and

...

3) Rural Forestry Lot Coverage (1 POLICY CHANGE)

The purpose of the Rural Forestry district is:

The primary purpose of this district is to implement the forestry designation of the Whatcom County Comprehensive Plan, established pursuant to RCW 36.70A.170, by providing the opportunity for non-industrial landowners to **manage their land for long-term productivity and sustained use of forest resources**. In addition, the district encourages the **management of land for wildlife, aesthetics, and other non-commodity values**. It also provides for uses that are compatible with these activities, while maintaining water quality and soil productivity. Lummi Island Scenic Estates shall be administered under the RR-I zone district regulations. A secondary purpose of this district is **to serve as a holding district within the urban growth area** Comprehensive Plan designations **to allow forestry uses** in the near term **while protecting the area from suburban sprawl and preserving the potential for future urban development**. [WCC 2042.010, emphasis added]

When calculating lot coverage only areas of roofed structures are included (as shown in the following definition) in all zones except the Rural Forestry district.

20.97.217 Lot coverage.

“Lot coverage” means the percent of a lot or parcel which is, or will be, covered by all structures located thereon. Coverage is determined by measuring areas covered by a weather tight roof. For properties within the jurisdiction of the Shoreline Management Program (WCC Title 23), submerged lands and/or tidelands within the boundaries of any waterfront parcel that are located waterward of the ordinary high water mark shall not be used to compute lot coverage.

In Rural Forestry, §20.42.450 indicates that we’re to include in the calculation everything that is not in forest product production. This would include roads and other open areas not containing roofed structures; basically anything (but critical areas) not containing forest. Unfortunately the language of §20.42.450 addresses two issues: primarily maintaining forest land but a little about lot coverage.

Staff proposes to break this section into two: One actually addressing lot coverage as it’s addressed in other districts (i.e., how much land can be covered in structures), and the other addressing forest land protection (which is what the existing language is primarily about). The proposed lot coverage language is taken from that of the Rural district. The proposed forestland retention language (§20.42.455) comes from the existing “lot coverage” language. This part of the amendment is not a policy change.

However, one policy amendment staff is proposing is to require a variance, rather than a conditional use permit. The current forestland protection regulation allows the 20% limit to be exceeded (up to 35%) through a Conditional Use Permit (CUP), which worked fine in the past for the forestry industry when it was more prominent. However as the forestry industry subsides more and more houses are being built in this district, and builders are using the CUP process to clear more forest so as to obtain hilltop views. This is contrary to the intent of this district, which is for “for nonindustrial landowners to manage their land for long-term productivity and sustained use of forest resources” (§20.42.010). Changing the process for exceeding the 20% clearing limit would require that such applicants show a hardship for doing so (which in some instances may be warranted), which is not a CUP criteria.

Additionally, staff recommends that we get rid of WCC 20.40.900, which contains CUP criteria specific to this zone. The criteria for other CUPs are found in WCC 22.05.026 and are almost identical, with the exception of a few that are already covered by other sections of the code (e.g., stormwater, critical areas, etc.). We find it odd to have different CUP criteria for different zones and believe this is a holdover from days past.

Chapter 20.42 Rural Forestry (RF) District

20.42.450 Lot coverage.

~~No more than 20 percent of the lot area shall be permanently altered or removed from production of forest products, excluding natural meadows, bogs, surface water and rock outcrops, unless authorized as a conditional use or the planned unit development provision of Chapter 20.85 WCC, in which case no structure or combination of structures, including accessory buildings, shall occupy or cover more than 35 percent of the lot. No structure or combination of structures, except for forest production structures, shall occupy or cover more than 5,000 square feet or 20%, whichever is greater, of the total lot area, not to exceed 25,000 square feet.~~

20.42.455 Forestland Retention.

~~No more than 20% of a lot's area shall be permanently altered or removed from the production of forest products, unless authorized by a variance (WCC 22.05.024) or as a Planned Unit Development (WCC Chapter 20.85), in which case no more than 35% of the lot's area shall be permanently altered or removed from the production of forest products.~~

20.42.150 Conditional uses.

The conditional uses listed herein shall be administered pursuant to the applicable provisions of Chapters 20.80 WCC (Supplementary Requirements), ~~and Chapter 22.05 WCC (Project Permit Procedures)~~, 16.08 the Whatcom County (SEPA) Ordinance, and Titles 21 (Land Division Regulations) the Whatcom County Subdivision Ordinance and 23 (the Whatcom County Shoreline Management Program). ~~Applicable conditional use permit criteria are established in the provisions of WCC 20.42.900 and will not be subject to the conditional use criteria provided for in WCC 22.05.026.~~

...

Editor's Note: The list of conditional uses is not being shown as they are not proposed for amendment.

~~20.42.900 Conditional use permit criteria.~~

~~.901 The conditional uses listed in WCC 20.42.150 shall be subject to the following forestry conditional use criteria. Said criteria listed in WCC 20.42.902 shall supersede the criteria listed in WCC 22.05.026.~~

~~.902 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 will:~~

- ~~(1) Be in accordance with all applicable local and state laws, standards and regulations;~~
- ~~(2) Be reasonably compatible with the surrounding environment and with the policies of the Whatcom County Comprehensive Plan;~~
- ~~(3) Not generate traffic in excess of capacity of the public road system at reasonable safety and service levels;~~
- ~~(4) Not create unreasonable demands for public expenditures to provide services, facilities, or utilities beyond those which are normally required for permitted uses in the Forestry District;~~
- ~~(5) Provide entrances to public roads or private roads open to public use in accordance with applicable county or state standards;~~

- ~~(6) Provide reasonable sound and sight buffering so as not to detract from normal use of surrounding property, public and private roads, and trails open to public use;~~
~~(7) Be located a reasonable distance from areas of actual or potential natural hazard;~~
~~(8) Not unreasonably contribute to actual or potential water quality or quantity problems;~~
~~(9) Be designed to provide reasonable safety from fire hazard;~~
~~(10) Not unreasonably interfere with any territorial or otherwise significant view from surrounding property and public roads;~~
~~(11) Not remove areas of native vegetation which protect shorelines and streambanks from erosion, except as necessary for such uses as culverts, bridges, boat ramps, recreation areas and stream bank stabilization projects; and~~
~~(12) Include reasonable soil erosion plans necessary to prevent soil, organic debris and other pollutants from entering streams, ponds, or lakes.~~

4) Mineral Lands Notification Distance

In 2003, Council amended WCC 14.06.030(B) (Mineral Resource Land – Disclosure) to required that— upon conveyance of a fee interest in real property or upon the issuance of a discretionary development permit—property owners sign a disclosure acknowledging that the property is within 500 feet of Mineral Resource Lands (it had previously been 300 feet). The purpose of this requirement was “to promote a good neighbor policy between mineral and non-mineral property owners by requiring notification to purchasers and users of property adjacent to or near mine operations of the inherent potential problems associated with such purchase or use.” (WCC 14.06.010(B))

There are similar requirements in various zones; however, they all require disclosure if within 300 feet of an MRL. It appears that the change in distance was not updated everywhere (nor mentioned in the ordinance (ORD2003-061). Staff would like to rectify this inconsistency, and since ORD2003-061 was the most recent amendment to this policy we proposed to change the distance to 500 feet in each of the Title 20 sections in which this inconsistency is found.

Chapter 20.22 Urban Residential – Medium Density (URM) District

20.22.662 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~~500 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.

Chapter 20.24 Urban Residential Mixed (UR-MX) District

20.24.652 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~~500 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.

Chapter 20.32 Residential Rural (RR) District

20.32.652 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~~500 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.

Chapter 20.34, Rural Residential-Island (RR-I) District

20.34.652 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~~500 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.

Chapter 20.36 Rural (R) District

20.36.652 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 ~~500~~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.

Chapter 20.37 Point Roberts Transitional Zone (TZ) District

20.37.651 Use of Natural Resources.

All discretionary project permits for land on or within one-half mile of an area designated as Rural or within ~~3500~~ feet of an area 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.

Chapter 20.40 Agriculture (AG) District

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 ~~500~~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.

Chapter 20.42 Rural Forestry (RF) District

20.42.652 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 500~~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.

Chapter 20.43 Commercial Forestry (CF) District

20.43.662 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 500~~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.

5) Standardizing Kennel Language
 In 2021 the Hearing Examiner issued a decision on an appeal of a PDS Code Interpretation (APL2020-0004) in which he raised a code construction problem: That throughout the code we use (and in the past have used) “kennel” in different ways and with different “intent” language. The following table indicates where the term “kennel” appears and its various iterations:

Zone	Permitted	Conditional Use	Prohibited	Term Used
Rural		20.36.155		Animal hospitals and accessory kennels and stables (subject to 3 standards)
		20.36.156		Commercial kennels and stables intended for the boarding or training of domestic animals
Agriculture		20.40.165		Commercial kennels (subject to numerous standards)
Rural Forestry		20.42.157		The operation of fur farms and kennels
Lake Whatcom Overlay District			20.51.100	Animal hospitals and accessory kennels and stables
			20.51.101	Commercial kennels and stables
Rural General Commercial		20.59.201		Animal kennels
Small Town Commercial	20.61.051(3)			Veterinary practices with accessory indoor kennels
		20.61.201(4)		Animal kennels not associated with a veterinary practice
General Commercial		20.62.155		Animal kennels

Rural Industrial and Manufacturing	20.69.053(5)			Animal hospital and accessory kennels and stables
Water Resources Protection Overlay District			20.71.220	Animal hospitals and accessory kennels and stables
			20.71.221	Commercial kennels and stables
Point Roberts Special District		20.72.154(2)		In the STC, animal kennels for kenneling up to six animals and that are associated with an animal groomer
			20.72.204(2)	In the STC, animal kennels , except as allowed by 20.72.154(2)

Because of the Hearing Examiner’s suggestion, staff would like to remedy this by standardizing the language and by adding a new definition of “accessory kennel.” Note that we are not proposing to amend the definition of “kennel,” nor the conditions they’re allowed in some of the zones.

For reference, the definition of “kennel” is:

20.97.191 Kennel.
 “Kennel” means a commercial establishment in which five or more dogs, cats, or other household pets are housed, bred, or boarded for a fee or compensation. A kennel may include grooming and/or training as accessory uses.

Additionally, staff recommends that kennels be allowed in the Light Impact Industrial district and proposes to add them to the permitted use section of Chapter 20.66.

Chapter 20.97 Definitions

20.97.004 Accessory kennels and accessory stables
“Accessory kennel” or “accessory stable” means the indoor facilities necessary for an animal hospital or veterinarian to house overnight animals undergoing medical care or treatment.

Chapter 20.36 Rural (R) District

20.36.150 Conditional uses.

...

.156 ~~Commercial k~~Kennels and stables.

...

Chapter 20.40 Agriculture (AG) District

20.40.150 Conditional uses.

...

.165 ~~Commercial k~~Kennels, as identified in WCC 20.97.191, which shall be located, designed, and operated so as not to interfere with the overall agricultural character of the area, provided the following criteria are met:

...

Chapter 20.42 Rural Forestry (RF) District

20.42.150 Conditional uses.

...

.157 ~~The operation of f~~ur farms and kennels.

...

Chapter 20.51 Lake Whatcom Watershed Overlay District

20.51.080 Prohibited uses.

...

.101 ~~Commercial k~~ennels and stables.

...

Chapter 20.59 Rural General Commercial (RGC) District

20.59.200 Conditional uses.

...

.201 Retail and office type uses.

(1) ~~Animal k~~ennels.

...

Chapter 20.61 Small Town Commercial (STC) District

20.61.050 Permitted uses.

...

.051 Retail and office type uses.

...

(3) Veterinary practices ~~with and~~ accessory ~~indoor~~ kennels.

...

Chapter 20.62 General Commercial (GC) District

20.62.150 Conditional uses.

...

.155 ~~Animal k~~ennels.

...

Chapter 20.66 Light Impact Industrial (LII) District

20.66.050 Permitted uses.

...

.082 Kennels

...

Chapter 20.71 Water Resource Protection Overlay District

20.71.200 Prohibited uses.

...

.221 ~~Commercial k~~ kennels and stables.

...

Chapter 20.72 Point Roberts Special District

20.72.150 Conditional uses.

...

.154 In the Small Town Commercial District:

...

(2) Animal groomers and accessory kennels for ~~kenneling~~ up to six animals ~~and that are associated with an animal groomer.~~

20.72.200 Prohibited uses.

...

.204 The following uses are prohibited in the Small Town Commercial Zone District:

(2) ~~Animal k~~ kennels, except as allowed pursuant to WCC 20.72.154(2).

6) Childcare Facilities Definitions.

In 2009 via Ord. 2009-034, the Council amended the definitions of and standards for the various types of childcare centers the County allows, adopting the following definitions:

20.97.092 Day care center.

“Day care center” means a structure other than an occupied dwelling unit regularly providing care during part of the 24-hour day to 13 or more children.

20.97.126 Family day care home.

“Family day care home” means an occupied dwelling unit regularly providing care during part of the 24-hour day for six or fewer children in the family abode of the person or persons under whose direct care the children are placed. Such care in a family day care home is limited to six or fewer children, including those children living in the home or children of other close relatives cared for in the home.

20.97.241 Mini-day care center.

“Mini-day care center” means a structure other than an occupied dwelling unit regularly providing care during part of the 24-hour day for 12 or fewer children. Such care in a mini-day care center is limited to 12 or fewer children, including those children of the faculty or children of other close relatives cared for by the faculty.

20.97.242 Mini-day care home.

“Mini-day care home” means an occupied dwelling unit regularly providing care during part of the 24-hour day for seven to 12 children in the family abode of the person or persons under whose direct care the children are placed. Such care in a mini-day care home is limited to 12 or fewer children, including those children living in the home or children of other close relatives cared for in the home.

However, the previous (then existing) definitions were not deleted by Ord. 2009-034. As clean up, staff proposes to do that now so that our code doesn't contain conflicting definitions.

Additionally, Ord. 2009-034 designated family day care homes as an accessory use (in the 9 zones where they were allowed), but failed to remove them as permitted uses, so now they're listed as both in 5 of those zones. Thus, staff proposes to delete family day care homes as a permitted in those 5 zones, leaving them as an accessory use. Doing this will not change in what districts family day care homes are allowed as an accessory use, as they would still be listed as such in the UR, URM, UR-MX, RR-I, R, TZ, AG, NC, and RGC districts.

Chapter 20.20 Urban Residential (UR) District

20.20.050 Permitted uses.

...

~~.059 Family day care homes subject to the requirements of WCC 20.97.180 for home occupations.~~

...

Chapter 20.22 Urban Residential – Medium Density (URM) District

20.22.050 Permitted uses.

...

~~.057 Family day care homes subject to the requirements of WCC 20.97.180 for home occupations.~~

...

Chapter 20.24 Urban Residential Mixed (UR-MX) District

20.24.050 Permitted uses.

...

~~.057 Family day care homes subject to the requirements of WCC 20.97.180 for home occupations.~~

...

Chapter 20.37 Point Roberts Transitional Zone (TZ) District

20.37.050 Permitted uses.

...

~~.056 Family day care homes subject to the requirements of WCC 20.97.180 for home occupations.~~

...

Chapter 20.40 Agriculture (AG) District

20.40.050 Permitted uses.

...

~~.057 Family day care homes subject to the requirements of WCC 20.97.180 for home occupations.~~

...

Chapter 20.97 Definitions

~~20.97.052.1 Child care facilities.~~

~~“Child care facilities” means a family day care home, mini day care center, and day care center as defined below:~~

- ~~(1) “Family day care home” means a person regularly providing care during part of the 24-hour day to six or fewer children in the family abode of the person or persons under whose direct care the children are placed.~~
- ~~(2) “Mini-day care center” means a person or agency providing care during part of the 24-hour day to 12 or fewer children in a facility other than the family abode of the person or persons under whose direct care the children are placed, or for the care of seven through 12 children in the family abode of such person or persons.~~
- ~~(3) “Day care center” means a person or agency that provides care for 13 or more children during part of the 24-hour day. (Ord. 99-068, 1999).~~

7) Agricultural Boundary Line Adjustments

The language of WCC 20.40.254 contains the general criteria that apply to the separation of farmstead parcels through both agricultural short plats and boundary line adjustments. However, some of the language is confusing as it mixes requirements for the two even though certain ones only apply to one or the other. In particular, the sections addressing “remainder parcels” only apply to short plats, not BLAs. Staff proposes to alleviate this confusion by clarifying which criteria only apply to short plats, and which apply to BLAs. No policy amendments are proposed, only grammatical ones.

20.40.250 Division or modification of parcels.

.254 Separation of the Farmstead Parcel Criteria.

- (1) The criteria for approval for the farmstead parcel and remainder parcel created through agricultural boundary line adjustment or agricultural short subdivision shall be the following:
 - (a) The area of the parcel containing the farmstead home site, whether the home exists or is to be added, is limited to the minimum amount required to encapsulate structures, parking areas, driveways, septic systems, wells, and landscaping required setbacks; and
 - (b) The farmstead parcel size shall be as stated in WCC 20.40.251, unless the existing residential structure(s) and/or well and septic constraints require a larger parcel, but shall not exceed the maximum lot size consistent with the exceptions in WCC 20.40.253; and
 - (c) The farmstead parcel and farmstead home site meet the siting criteria contained in WCC 20.40.650; and
 - (d) For agricultural short plats:
 - (i) A remainder parcel shall be created equal to or greater than 10 nominal acres; and
 - (ii) The remainder parcel shall have no existing residential development and no development rights, and a condition containing the language as provided in WCC 20.40.250(4) ~~or (5)~~ shall be included on the short plat ~~or boundary line adjustment~~ for the remainder parcel prior to final approval; and
 - (iii) The applicant and his or her heirs provide right of first purchase for a period of not less than 60 days through deed restriction to the original purchaser and subsequent purchasers of the

remainder parcel for purchase of the farmstead parcel before they are offered on the open market; and

(e) For boundary line adjustments the language as provided in WCC 20.40.250(5) shall be included on the boundary line adjustment prior to final approval;

~~(d)~~(f) A right to farm disclosure statement as provided for in WCC 14.02.040(B) will be signed by the farmstead parcel owner and subsequent purchasers of the farmstead parcel, and recorded as per WCC 14.02.040(A)(1) and 14.02.050; and

~~(e)~~(g) All land division shall comply with the appropriate map and recording provisions of WCC Title 21; and

~~(f)~~(h) The overall submittal shall comply with WCC 20.40.250 et seq.

8) Time Period for Responding to NOARs

Under state law, all jurisdictions (including Whatcom County) are required to act on permits within 120 days. However, this clock is stopped at certain points in the review process, one of which is when the County requests additional information when an application doesn't contain enough to ensure consistency with our codes (done through a Notice of Additional Requirements, or NOAR). To keep this schedule, and keep projects from inaction, §22.05.100(3) sets a 180-day time limit for applicants to provide this information. But it also provides an opportunity for applicants to request additional time (up to 2 years). However, staff has found that the language allowing the applicant to request additional time is unclear and would like to adjust it, as shown below.

Title 22 LAND USE AND DEVELOPMENT

Chapter 22.05 Project Permit Procedures

22.05.100 Consistency review and recommendations.

During project permit review, the review authority shall determine if the project proposal is consistent with the county's comprehensive plan, other adopted plans, existing regulations and development standards.

...

- (3) For all project permit applications, if more information is required to determine consistency at any time in review of the application, the department may issue a notice of additional requirements. The notice of additional requirements shall allow the applicant 180 calendar days from the date of issuance to submit all required information. The ~~e~~D~~irector~~ ~~or designee~~ may extend this period for no more than cumulative 24 months upon written request by the applicant, provided the first request is submitted before the end of the first 180-day period. Additional extension requests may be considered if submitted before the end of any subsequent extension period. A notice of additional requirements is not a final administrative determination.

...