WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

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<th>Originator: Peter Gill</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to:</th>
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<td>04/09/2013</td>
<td>Natural Resources Committee</td>
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<tr>
<td>Division Head: Mark Personius</td>
<td>MRP</td>
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<td>Executive: Jack Lawns</td>
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TITLE OF DOCUMENT:
Proposed Whatcom County Code Chapter 20.51 Lake Whatcom Watershed Overlay District; PLN2011-00015

ATTACHMENTS: Memo to update Council, Small lot Phosphorus Neutral Stormwater Design handout

SEPA review required? ( X ) Yes ( ) NO
SEPA review completed? ( X ) Yes ( ) NO
Should Clerk schedule a hearing? ( ) Yes ( X ) NO
Requested Date: 

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Whatcom County Planning & Development Services will provide an update related to the proposed WCC 20.51 Lake Whatcom Watershed Overlay District including, analysis of small lot exemption from phosphorus neutral facilities and changes to proposed regulations.

COMMITTEE ACTION: 

COUNCIL ACTION: 

Related County Contract #: Related File Numbers: Ordinance or Resolution Number: 

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
Memorandum

TO: Whatcom County Council Natural Resources Committee
FROM: Peter Gill, Senior Planner
THROUGH: Mark Personius, Long Range Planning Manager
DATE: April 9, 2013
SUBJECT: Developing Phosphorus neutral Stormwater Runoff Standards in the Lake Whatcom Watershed

OVERVIEW: Staff will bring forward to the Natural Resources Committee on April 9, 2013 an update of our progress on the proposed WCC 20.51 Lake Whatcom Watershed Overlay District. The purpose of this meeting is to (1) get direction on the need to exempt small lots from phosphorus specific stormwater standards and (2) describe how the proposed code differs from existing standards.

BACKGROUND: In a March 2011 letter to the Department of Ecology, Whatcom County committed to accelerating implementation of the Lake Whatcom 2010 five year work plan (WC Res2010-031) by implementing regulations that address phosphorus loading from new development in the Lake Whatcom watershed. This was followed by the introduction of new development regulations to Planning Commission in November of 2011. Code was reviewed at five work sessions, comments taken at two hearings, and reviewed by a sub-committee of engineers and planning commissioners. The proposal was first presented to Council Natural Resource Committee in April of 2012. At the last Committee meeting in November 2012, council asked for an analysis of small lots.

Since Planning Commission review, new NPDES standards have come into effect and the Lake Whatcom draft TMDL has been published. This TMDL requires lowering the total phosphorus entering the lake by 87%. These proposed stormwater regulatory changes will help meet the TMDL phosphorus reduction goals for new development and reduce the amount of public investments otherwise needed to reduce phosphorus runoff into Lake Whatcom.

Code Objectives: The new stormwater standards around Lake Whatcom are being proposed in order to help limit phosphorus runoff from new development beyond a natural vegetated condition from entering a significant public urban and rural drinking water source. The second objective is to make the code more predictable, streamlined, and clear. The third objective is to comply with state mandated NPDES permit requirements.
EXEMPT LOT DISCUSSION: Council has asked for an evaluation of the effects of exempting small lots from phosphorus specific stormwater regulations. In December, Whatcom County staff visited parcels representative of the vacant lot inventory left in the Lake Whatcom watershed with staff from the City of Bellingham, Sudden Valley Community Association, and the Conservation District. Based on these site visits, County, City, and Conservation District engineering staff have agreed on an approach to phosphorus neutral stormwater facility designs that are economical and effective.

We were asked to provide analysis on exempting lots less than 10,000 ft² from phosphorus specific stormwater regulations. The analysis included three points:

a. Cost differential of applying current stormwater regulations to lots less than 10,000 sq. ft. to stormwater regulations proposed in WCC 20.51 Lake Whatcom Watershed Overlay District

A handout on phosphorus neutral stormwater designs is attached as exhibit A. Four designs are described in detail, three phosphorus neutral approaches, and one that represents the current minimum standard. While there were a wide range of stormwater systems that the engineering staff might have included, the examples were chosen because they are cost effective, phosphorus neutral, and meet existing state NPDES standards. In the coming weeks staff will be reaching out to the local engineering community to review the plans and develop a cost estimate of the designs. These cost estimates will be incorporated into the handout and reported back to the Committee at the next meeting.

b. Estimated amount of phosphorus contributed from lots exempted from developing under the proposed regulations

An initial estimate of phosphorus contribution from exempt lots will be presented for Council consideration.

c. Identification of potential offsets for the additional phosphorus loading resulting from potential exemption

We are working to determine whether additional funding will be required for this part of the project and will be incorporated into staffs’ work plans.

We anticipate presenting updated findings on feasibility and cost, phosphorus loading estimates, and code change recommendations to the County Council in May of 2013.
CODE CHANGE DISCUSSION: The proposal differs from existing code in its layout and its stormwater management standards. One of the benefits of the proposal is the consolidation of the many existing rules land owners must follow for a permit. The existing code regulating stormwater in the Lake Whatcom watershed is spread across several different Whatcom County code sections:

1. 20.71 - Water Resource Protection Overlay District
2. 20.80.630 – NPDES standards
3. 20.80.635 - Stormwater Special Districts
   □ Development Standards Ch. 2, Section 221
4. 20.80.735 - Water Resource Special Management Areas

The public interest is served by consolidating these sections into one clear and consistent standard that applies throughout the watershed.

A significant change with this code is the approach to stormwater management. Protection in the watershed has traditionally taken a preventive approach to managing stormwater runoff, the proposed code takes a more managed approach. For example, tree canopy retention and maximum impervious surface limits in existing code are regulatory measures focused on preventing the potential impacts. The proposed code would eliminate clearing restrictions, but would require a managed stormwater system to prevent impacts. While the “managed” approach provides less regulatory restrictions, the more the site is changed from a native vegetated condition, the greater the cost of the stormwater system. For example, if an entire three acre parcel were cleared, a significant investment would be needed to build a stormwater system. Conversely, if the majority of the same property were maintained in a native vegetated condition, runoff from the cleared area could be dispersed through it for little, or no, added cost. The proposed approach provides financial incentives to minimize changes to the landscape. The following chart compares general differences between proposed and existing standards:

<table>
<thead>
<tr>
<th>Existing Standards</th>
<th>Proposed Standards</th>
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<tbody>
<tr>
<td>Seasonal Clearing Limitations (Oct. 1-May 31)</td>
<td>Yes</td>
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<tr>
<td>Impervious Surface Limitations</td>
<td>No</td>
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<tr>
<td>Erosion and Sediment Control</td>
<td>Yes</td>
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<tr>
<td>Tree Canopy Retention[3]</td>
<td>No</td>
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<tr>
<td>Open Space Requirements</td>
<td>No</td>
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<tr>
<td>Stormwater Site Plan Recording</td>
<td>No</td>
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<tr>
<td>Protective Native Growth Area Covenant[3]</td>
<td>No</td>
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<tr>
<td>Subdivision clustering</td>
<td>Yes</td>
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</table>

The Planning Commission recommended code will be presented at a subsequent Committee meeting. We will also provide a list of potential changes intended to address new requirements of the NPDES permit and the Lake Whatcom TMDL.

[1] Permanent on-site stormwater quality and quantity facilities are required on all lots less than five acres in size for projects that increase impervious surfaces by more than 300 ft² or when renovation costs exceed 50% of assessed value. (These facilities do not necessarily treat for phosphorus.)

[2] Stormwater must fully infiltrate or disperse, per the per the Washington State Department of Ecology Stormwater Management Manual for Western Washington (WSDOE SWMMWW), or be designed by a licensed engineer that may employ all techniques and all technologies available to not exceed the phosphorus loading profile of the property from its native vegetated condition (See examples in Exhibit A).

[3] All parcels can clear up to the greater of 35% or 5,000 ft² of the existing tree canopy. For parcels 2-5 acres, the remaining canopy must be kept as a Protected Native Growth Area (PNGA)
Small Lot Phosphorus Neutral Stormwater Design

Whatcom County Council has requested that County staff identify standard "phosphorus neutral" stormwater runoff management system designs that can be economically established for small lot development in the Lake Whatcom Watershed. "Phosphorus neutral" means that the phosphorus loading profile of the stormwater runoff from the developed parcel does not exceed the phosphorus loading profile of the stormwater runoff from the parcel in an otherwise fully native vegetated condition.

Of an estimated 1,600 potential development units remaining under County jurisdiction in the Lake Whatcom watershed, approximately:

- 500 lots are less than 7,200 sq. ft. in size
- 200 lots are between 7,200 and 10,000 sq. ft. in size

GENERAL APPROACH

Small lots will likely require engineered stormwater systems to achieve the phosphorus neutral goal. These engineered systems are based on three basic stormwater management conceptual approaches for the developed lot:

A. **Zero Stormwater Runoff.** If no stormwater runoff occurs, then no stormwater runoff phosphorus loading occurs either. Example: Infiltrate all stormwater into the ground.

B. **Matched Runoff—when only change is addition of impervious surface.** This requires a stormwater detention system that will replicate the stormwater runoff quantity and duration of a native vegetated condition when no new phosphorus sources are generated.

C. **Stormwater Runoff Treatment** to a native vegetation loading profile. Stormwater facilities require filtering of phosphorus from runoff.

STORMWATER MANAGEMENT COMPARISON

<table>
<thead>
<tr>
<th>Minimum County Stormwater Standard</th>
<th>Phosphorus Neutral Approach A.</th>
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</thead>
<tbody>
<tr>
<td>BMPs: Dispersion trench and tree retention</td>
<td>BMPs: Infiltration trenches and pervious pavement</td>
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<tr>
<td>Cost Range: [To Be Determined]</td>
<td>Cost Range: [To Be Determined]</td>
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<tr>
<th>Phosphorus Neutral Approach B.</th>
<th>Phosphorus Neutral Approach C.</th>
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<tbody>
<tr>
<td>BMPs: Detention vault dispersion trench, and native vegetation</td>
<td>BMPs: Sand filtration</td>
</tr>
<tr>
<td>Cost Range: [To Be Determined]</td>
<td>Cost Range: [To Be Determined]</td>
</tr>
</tbody>
</table>
Small Lot Development Standards Stormwater Design

EXISTING MINIMUM COUNTY STANDARD*

The Whatcom County Development Standards, Section 221 (Stormwater Special District Standards) require the feasibility of infiltration, dispersion, and engineered systems to be evaluated in that order. The main criteria of which system is used is usually lot size and soil type.

- **Best Management Practices employed:** Dispersion Trench
- **Management Approach:** Standard Dispersion (not Full Dispersion)
- **Site Description:** 5,500 ft² lot, slope is up to 15%, poorly drained soils (Type C soils)
- **Maintenance:** Clear trench and catch basin of debris
- **Capital Cost:** Recording fees, Materials (rock, perforated pipe), and Labor

*Higher stormwater standards are now required within NPDES Phase II areas, where many of the small lot exist, including Sudden Valley and in the UGAs.
Approach A: Zero Stormwater Runoff

If no stormwater runoff occurs, then no stormwater runoff phosphorus loading occurs either. Example: Infiltrate all stormwater into the ground.

- **Best Management Practices employed**: Downspout Full Infiltration, Pervious Pavements.
- **Site Description**: 5,500 SF lot, slopes up to 25%, well draining soils (can be engineered replacement soil if insitu soils prove unsuitable)
- **Maintenance**: Yes — minimal (infiltration trench functionality preservation)
- **Capital Costs**: Pervious driveway, infiltration trenches, piping, soil testing, (if needed) engineered soils design and engineered soils installation.

Downspout Infiltration

Trees Retained

Native Scrubs and ground cover

Lot: 5,500 SF
Small Lot Phosphorus Neutral Stormwater Design

**Approach B: Stormwater Runoff Quantity and Duration Matching**

Impervious surface areas themselves are not net phosphorus generators per se as native vegetated areas are. However, impervious surface areas can convey phosphorus-contaminated stormwater, and they can disrupt the hydrology of, and thus the phosphorus loading profile. Therefore, if post-development stormwater runoff quantity and duration can match pre-development/native vegetation stormwater runoff and duration, then the post-development stormwater runoff phosphorus loading profile from the lot will be less than the pre-development/native vegetation stormwater runoff phosphorus loading profile from the lot. Example: Controlled discharge of stormwater collected in detention vaults.

- **Best Management Practices employed:** Detention and Dispersion
- **Site Description:** 9,750 SF lot, steep, poorly drained soils
- **Limitations/Conditions:** No native vegetation area conversions other than new impervious surface areas (i.e., needs Protected Native Growth Area covenant)
- **Maintenance:** Yes — outlet control system functionality preservation, detention vault prefilter/strainer cleaning
- **Capital Costs:** Detention vault with outlet control system, dispersion trench, piping, soil testing, engineering/modeling
Small Lot Phosphorus Neutral Stormwater Design

**APPROACH C:** STORMWATER RUNOFF TREATMENT

In this phosphorus neutral approach water is “treated” in order to remove unwanted nutrients or contaminants from the water. Example: Stormwater passes through a sand filter to remove some phosphorus before leaving the lot as stormwater runoff.

- **Best Management Practices employed:** Sand Filtration, Infiltration, Pervious Pavements
- **Site Description:** 5,500 SF lot, steep, poorly drained soils
- **Limitations/Conditions:** No native vegetation area conversions other than new impervious surface areas (i.e., needs Protected Native Growth Area covenant)
- **Maintenance:** Yes — minimal, sand filter functionality preservation.
- **Capital Costs:** Sand filter, piping, engineering
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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**TITLE OF DOCUMENT:**
Amend WCC Chapter 3.37.070 to Establish Membership of the Behavioral Health Revenue Advisory Committee.

**ATTACHMENT:**
Memo to Executive, WCC Chapter 3.37 Exhibit A, Ordinance

**SEPA review required?** ( ) Yes ( X ) NO
**SEPA review completed?** ( ) Yes ( X ) NO

Should Clerk schedule a hearing? ( ) Yes ( X ) NO
Requested Date: [ ]

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:**
The purpose of the proposed amendment to Whatcom County Code is to amend Chapter 3.37, section 070. The new section will eliminate mental health and substance abuse advisory board representation due to the dissolution of those boards, and establish the Behavioral Health Advisory Board representation.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**
3/26/2013: Introduced

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: [www.co.whatcom.wa.us/council](http://www.co.whatcom.wa.us/council).
Memorandum

TO:                Jack Louws, Whatcom County Executive
FROM:              Regina A. Delahunt, Director
DATE:              March 11, 2013
RE:                Ordinance Amending WCC Chapter 3.37.070, establishing advisory board membership

The Chemical Dependency/Mental Health Program Fund Advisory Committee, informally called the "Behavioral Health Revenue Advisory Committee" was established in Whatcom County Code, Chapter 3.37, section 070. The attached ordinance to be considered by council amends this section of the code. Some of the provisions of the existing code are obsolete and no longer apply due to dissolution of the Mental Health and Substance Abuse Advisory Boards, and creation of the Behavioral Health Advisory Board.

A provision of the proposed ordinance is the replacement of the existing Mental Health Advisory Board and the Substance Abuse Advisory Board representation with a single Behavioral Health Advisory Board member.

Please contact Anne Deacon at ext. #50877, if you have any questions.
An Ordinance Amending County Code, Chapter 3.37, Section 3.37.070 Chemical dependency/mental health program fund oversight advisory committee

WHEREAS, the Chemical Dependency/Mental Health Program Fund Advisory Committee requires representation from the mental health and substance abuse boards; and

WHEREAS, the Mental Health and Substance Abuse Advisory Boards have been dissolved; and

WHEREAS, Whatcom County has created a new Behavioral Health Advisory Board to represent Mental Health and Substance Abuse issues; and

WHEREAS, new representation from the Behavioral Health Advisory Board on the Chemical Dependency/Mental Health Program Fund Advisory Committee is now necessary; and

WHEREAS, certain sections of the existing code are obsolete because of the dissolution of the Mental Health and Substance Abuse Advisory Boards; and

WHEREAS, the existing code must designate member representation from the newly established Behavioral Health Advisory Board

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that Whatcom County Code Chapter 3.37.070 is amended as specified in Exhibit A of this ordinance to replace substance abuse and mental health advisory board representation with Behavioral Health Advisory Board representation, repealing obsolete sections.
Date prepared: 3/1/2013

**ADOPTED** this ___ day of __________, 2013.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

Kathy Kershner, Council Chair

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

CIVIL DEPUTY PROSECUTORS

Jack Louws, County Executive

(  ) Approved   (  ) Denied

Date Signed:______________________
3.37.070 Chemical dependency/mental health program fund oversight advisory committee.

To ensure oversight, implementation, and evaluation, the county council authorizes the county executive to appoint a 10-member oversight committee consisting of one representative from each of the following areas: Peace Health Hospital, the judicial branch of Whatcom County government, the Whatcom County sheriff or designee, the chief of corrections or designee, the Whatcom County public health director or designee, and the Behavioral Health Advisory Board. The remaining four positions are to include two people that represent mental health advocacy, and two people that represent drug recovery advocacy. In coordination with the oversight committee, the executive or designee shall submit quarterly progress reports and one annual summary report for those programs supported with the sales tax revenue to the county council. (Ord. 2008-027 Exh. A).
Chapter 3.37
SALES AND USE TAX FOR CHEMICAL DEPENDENCY OR MENTAL HEALTH TREATMENT SERVICES AND THERAPEUTIC COURT PROGRAMS

Sections:

3.37.010  Sales and use tax imposed.
3.37.020  Tax rate and applicability.
3.37.030  Administration and collection.
3.37.040  Establishment of chemical dependency/mental health program fund.
3.37.050  Use of funds.
3.37.060  Administration of fund.
3.37.070  Chemical dependency/mental health program fund oversight advisory committee.
3.37.080  Effective date.
3.37.090  Severability.

3.37.010 Sales and use tax imposed.

Pursuant to RCW 82.14.460, there is hereby imposed a sales and use tax, as the case may be, upon any taxable event, as defined in Chapters 82.08 and 82.12 RCW, occurring within Whatcom County. The tax shall be imposed upon and collected from those persons who are taxable by the state under Chapters 82.08 and 82.12 RCW. This tax shall be in addition to any other sales and use tax imposed by the state of Washington and/or Whatcom County. (Ord. 2008-027 Exh. A).

3.37.020 Tax rate and applicability.

The rate of tax shall equal one-tenth of one percent of the selling price in the case of a sales tax, or value of the article used in the case of a use tax. (Ord. 2008-027 Exh. A).

3.37.030 Administration and collection.
The tax imposed by this chapter shall be administered and collected in accordance with RCW 82.14.050. The county executive or designee is hereby authorized to and directed to execute any contracts with the Washington State Department of Revenue that may be necessary to provide for the administration or collection of the tax. (Ord. 2008-027 Exh. A).

3.37.040 Establishment of chemical dependency/mental health program fund.

There is hereby created the chemical dependency/mental health program fund. The Whatcom County treasurer shall deposit monies collected pursuant to this chapter in this fund. The treasurer may invest the fund balance and any interest earned shall be deposited into this fund. (Ord. 2008-027 Exh. A).

3.37.050 Use of funds.

Monies deposited into the chemical dependency/mental health program fund shall be used solely for the purpose of providing new or expanded chemical dependency or mental health treatment services and for the operation of new or expanded therapeutic court programs, and as otherwise authorized by the laws of the state of Washington as referenced in RCW 82.14.460. Monies collected under this chapter may be used to supplant existing funding for these programs as authorized by the laws of the State of Washington as referenced in RCW 82.14.460. (Ord. 2008-027 Exh. A).

3.37.060 Administration of fund.

The county executive shall administer the chemical dependency/mental health program fund with the assistance of the chemical dependency/mental health program fund oversight advisory committee and the Whatcom County health department, in accordance with budgetary processes and Whatcom County administrative policies and state statutes. (Ord. 2008-027 Exh. A).

3.37.070 Chemical dependency/mental health program fund oversight advisory committee.

To ensure oversight, implementation, and evaluation, the county council authorizes the county executive to appoint an 11-member oversight committee consisting of one representative from each of the following areas: Peace Health Hospital, the judicial branch of Whatcom County government, the Whatcom County sheriff or designee, the chief of corrections or designee, the Whatcom County public health director or designee, and the mental health advisory board and the substance abuse advisory board. The remaining four positions are to include two people that represent mental health advocacy, and two people that represent drug recovery advocacy. In coordination with the oversight committee, the executive or designee shall submit quarterly progress reports and one annual summary report for those programs supported with the sales tax revenue to the county council. (Ord. 2008-027 Exh. A).
3.37.080 Effective date.

In accordance with the Whatcom County budget cycle, this chapter shall take effect January 1, 2009. (Ord. 2008-027 Exh. A).

3.37.090 Severability.

If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter or the application of the provisions to other persons or circumstances is not affected. (Ord. 2008-027 Exh. A).
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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**AGENDA BILL NO. AB2013-135**

**TITLE OF DOCUMENT:**
TERMINATION OF DEVELOPMENT AGREEMENT/R10A to R5A

**ATTACHMENTS:**

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<tr>
<th>SEPA review required?</th>
<th>( ) Yes</th>
<th>( x ) NO</th>
<th>Should Clerk schedule a hearing?</th>
<th>( ) Yes</th>
<th>( x ) NO</th>
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<tr>
<td>SEPA review completed?</td>
<td>( ) Yes</td>
<td>( ) NO</td>
<td>Requested Date:</td>
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**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Upon the adoption of Ordinance No. 2011-051, the County rezoned a portion of real property owned by Caitac from Rural one dwelling unit per 10 acres to Rural one dwelling unit per 5 acres. Then, on December 15, 2011, Caitac and the County entered into a Development Agreement relating to the rezoned property and recorded at Auditor File No. 2111202336. Following appeals of Ordinance No. 2011-051 and the associated Development Agreement along with appeals of another ordinance and development agreement, the County approved a settlement agreement entered October 10, 2012, which required the rezone of this property back to R10A. Upon the adoption of Ordinance No. 2012-058, the County reversed the effect of Ordinance No. 2011-051 and the property reverted to R10A zoning. The Development Agreement associated with R5A zoning is no longer applicable to this property. Pursuant to Section 8.6(e) of the Development Agreement, the Development Agreement may be terminated upon mutual agreement of the parties.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

<table>
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<tr>
<th>Related County Contract #:</th>
<th>Related File Numbers:</th>
<th>Ordinance or Resolution Number:</th>
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<tr>
<td>AB2011-345 &amp; AB2012-370</td>
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After recording return document to:
ZENDER THURSTON, P.S.
ATTN: ROBERT A. CARMICHAEL
P.O. BOX 5226
BELLINGHAM, WA 98227

DOCUMENT TITLE:
TERMINATION OF DEVELOPMENT AGREEMENT/R10A to R5A

REFERENCE NUMBER OF RELATED DOCUMENT:
2111202336

GRANTOR:
CAITAC USA CORP, a Washington corporation

GRANTEE:
WHATCOM COUNTY, a political subdivision of the state of Washington

ABBREVIATED LEGAL DESCRIPTION:
Ptns of the NE ¼, the SE ¼ and all of NW ¼ and SW ¼ in Sec 36, T39N, R2E
Ptn of NW ¼ of Sec 1, T38N, R3E

ADDITIONAL LEGAL DESCRIPTION ON PAGE(S) _____ OF DOCUMENT.

ASSESSOR’S TAX PARCEL NUMBER(S):
390236 200270 0000
390236 445440 0000
380201 074504 0000
380201 202508 0000
TERMINATION OF DEVELOPMENT AGREEMENT

THIS TERMINATION OF DEVELOPMENT AGREEMENT ("Termination") is entered into this ___ day of ____________, 2013, between Whatcom County, a political subdivision of the state of Washington ("County"), and Caitac USA Corp., a Washington corporation ("Caitac"). County and Caitac are collectively referred to as the "Parties".

RECITALS

WHEREAS, upon the adoption of Ordinance No. 2011-051, the County rezoned a portion of real property owned by Caitac from Rural one dwelling unit per 10 acres ("R10A") to Rural one dwelling unit per 5 acres ("R5A") ("Rezone Property", legally described in Exhibit A attached hereto and incorporated herein by this reference); and

WHEREAS, on December 15, 2011, Parties entered into a Development Agreement ("Development Agreement") relating to the Rezone Property and recorded at Auditor File No. 2111202336; and

WHEREAS, following appeals of Ordinance No. 2011-051 and the associated Development Agreement along with appeals of another ordinance and development agreement, the County approved a settlement agreement entered October 10, 2012, which required the rezone of the Rezone Property back to R10A; and

WHEREAS, upon the adoption of Ordinance No. 2012-058, the County reversed the effect of Ordinance No. 2011-051 and the Rezone Property reverted to R10A zoning; and

WHEREAS, the Development Agreement associated with R5A zoning is no longer applicable to the Rezone Property; and

WHEREAS, pursuant to Section 8.6(e) of the Development Agreement, the Development Agreement may be terminated upon mutual agreement of the Parties; and

WHEREAS, the foregoing recitals are a material part of this Agreement;

NOW THEREFORE, based on the foregoing recitals, the parties hereby covenant and agree as follows:

The Development Agreement entered into by Parties on December 15, 2011, and recorded at Auditor File No. 2111202336, is now terminated and of no force and effect.

AGREED as of the date first set forth above.
WHATCOM COUNTY, a political subdivision of the state of Washington

____________________________
Print name: ____________________
Its: __________________________

ATTEST:

______________________________
Print name: ____________________
Its: __________________________

APPROVED AS TO FORM

______________________________
Print name: ____________________
Its: Deputy Prosecuting Attorney

CAITAC USA CORP, a Washington corporation

______________________________
By: Naoyuki Ishii
Its: Executive Vice President

Page 3 of 4
STATE OF WASHINGTON  )
) ss.
COUNTY OF WHATCOM  )

On this day personally appeared before me ____________________, to me known to be the __________________ of WHATCOM COUNTY, a political subdivision of the State of Washington that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said county for the uses and purposes therein mentioned, and on oath stated that he/she is authorized to execute said instrument.

GIVEN under my hand and official seal this ______ day of ____________, 2013.

__________________________________________
Print Name

NOTARY PUBLIC in and for the State of Washington, residing at__________
My commission expires___________________

STATE OF WASHINGTON  )
) ss.
COUNTY OF WHATCOM  )

On this day personally appeared before me Naoyuki Ishii to me known to be the Executive Vice President of CAITAC USA CORP., that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute said instrument and that the seal affixed, if any, is the corporate seal of said corporation.

GIVEN under my hand and official seal this 20th day of March______, 2013.

Karen Reich
NOTARY PUBLIC in and for the State of Washington, residing at Deming, WA. 

KAREN REICH
COMMISSION EXPIRES MAY 4, 2014
STATE OF WASHINGTON

Page 4 of 4
Caitac Property to be Zone R5A

Parcel A

Lots 10, 11, 12 and 13, Block 2; Lot 3, EXCEPT the South 110 feet of the East 150 feet thereof; and Lots 1, 2 and 4 to 25 inclusive, and the East half of Lot 26, Block 3, "Belden Acres," Whatcom County, Washington, as per the map thereof, recorded in Book 7 of Plats, page 87, in the Auditor's office of said county and state. EXCEPT a portion conveyed to the State of Washington for Guide-Meridian Road by deed recorded under Auditor's File No. 523532. ALSO EXCEPTING the land described as Parcel A in Exhibit A of the Stipulated Judgment and Decree of Appropriation, under Whatcom County Superior Court Cause No. 04-2-01581-9, filed on July 18, 2005. ALSO EXCEPT a portion of Lot 10, Block 3, "Belden Acres," conveyed to Whatcom County by deed recorded under Recording No. 1629385, described as follows:
Commencing at the Northeast corner of Section 36, Township 39 North, Range 2 East of W.M.; thence North 88°10'38" west 291 feet along the Northerly line of said section 36; thence a right angle South 1°49'22" west 30 feet to the Southerly right-of-way line of County Road No. 58 (West Smith Road) and the point of beginning; thence along said County Road right-of-way line South 88°10'38" East 251 feet to the intersection with the westerly right-of-way line of SR 539 (Guide Meridian Road); thence Southerly along the Westerly right-of-way line of SR 539 a distance of 110.80 feet; thence Northwesterly 74.30 feet to a point lying 61.00 feet Westerly of the East line and 70 feet Southerly of the South line of said section 36; thence running parallel to the Southerly right-of-way line of said County Road a distance of 90.00 feet; thence Northwesterly 145.60 feet to a point on the Southerly right-of-way line of said County Road, said point being the point of beginning.

ALSO the Southwest quarter of the Northeast quarter and that portion of the Northwest quarter of the Northeast quarter of Section 36, Township 39 North, Range 2 East, lying South and West of the Plat of "Belden Acres," Whatcom County, Washington, as per the map thereof, recorded in Book 7 of Plats, page 87, in the Auditor's office of said County and state. Also the East half of the South half of section 36, Township 39 North, Range 2 East, EXCEPTING the Southeast quarter of the Southeast quarter of said section 36; ALSO EXCEPTING the East 1322.61 feet of the North half of the Southeast quarter of said section 36.

ALSO Lots 27 to 45, inclusive, and the west half of Lot 26, Block 3, "Belden Acres," Whatcom County, Washington, as per the map thereof, recorded in Book 7 of Plats, page 87, in the Auditor's office of said county and state.

ALSO that portion of the Northwest quarter of Section 36, Township 39 North, Range 2 East, lying South of Block 3, "Belden Acres," Whatcom County, Washington, as per the map thereof, recorded in Book 7 of Plats, page 87, in the Auditor's office of said county and state. EXCEPT the Southwest quarter of the Northwest quarter of said section 36.
All situate in Whatcom County, Washington.
Parcel B

The west half of the South half of section 36, Township 39 North, Range 2 East, EXCEPT Aldrich Road in the Southwest corner thereof. And the Southwest quarter of the Northwest quarter of section 36, Township 39 North, Range 2 East.

ALSO TOGETHER WITH all of Blocks 81 and 82, Plat of Bakerview Addition to the City of Bellingham, as per the map thereof, recorded in Book 7 of Plats, pages 40 to 45 inclusive, records of said county and state, EXCEPT that portion described as follows:
BEGINNING at the Southeast corner of said Block 82; thence North 00°15'35" East along the Easterly line thereof 658.14 feet; thence South 89°55'42" West 2586.13 feet to the westerly line of said Block 81; thence South 00°17'04" west along said westerly line 654.28 feet to the Southwest corner thereof; thence North 89°40'52" East along the Southerly line of said Blocks 81 and 82 a distance of 2586.48 feet to the Point of Beginning.

All situate in Whatcom County, Washington.

EXCEPT LOTS 10, 11, 12, AND 13 OF BLOCK 2 OF SAID PLAT OF BELDON ACRES.

EXCEPT THAT PORTION OF THE WEST HALF OF THE NORTHEAST QUARTER AND THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 36, T 38 N, R 2 E, W.M. BEING RESERVED FOR TC ZONING DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION;

THENCE S 01°19'05" W ALONG THE EASTERLY LIMITS OF SAID NORTHEAST QUARTER, SAID BEARING PER RECORD OF SURVEY RECORDED UNDER WHATCOM COUNTY AUDITOR'S FILE NO. 201102191, A DISTANCE OF 2654.75 FEET TO THE EAST QUARTER CORNER OF SAID SECTION 36;

THENCE N 88°36'10" W ALONG THE SOUTHERLY LIMITS OF SAID QUARTER A DISTANCE OF 1994.88 FEET TO THE TRUE POINT OF BEGINNING.

THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 150 FEET, THE CENTER OF WHICH BEARS S 62°34'43" E, THOUGH A CENTRAL ANGLE OF 23°03'20", AN ARC DISTANCE OF 60.36 FEET;

THENCE S 04°21'57" W A DISTANCE OF 312.58 FEET;

THENCE S 17°55'16" W A DISTANCE OF 334.13 FEET;

THENCE S 24°11'19" W A DISTANCE OF 479.94 FEET;

THENCE N 89°43'29" W A DISTANCE OF 241.35 FEET;

THENCE N 30°48'06" E A DISTANCE OF 80.04 FEET;

THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 200 FEET THROUGH A CENTRAL ANGLE OF 30°39'05" AN ARC DISTANCE OF 106.99 FEET;

THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 130 FEET THROUGH A CENTRAL ANGLE OF 71°30'25" AN ARC DISTANCE OF 162.24 FEET;

THENCE N 10°03'14" W A DISTANCE OF 52.08 FEET;

EXHIBIT A - Page 2 of 3
Caitac Property to be Zone R5A

THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 70 FEET THROUGH A CENTRAL ANGLE OF 48°07'08" AN ARC DISTANCE OF 58.79 FEET;

THENCE N 38°03'54" E A DISTANCE OF 95.31 FEET;

THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 100 FEET THROUGH A CENTRAL ANGLE OF 55°18'29" AN ARC DISTANCE OF 96.53 FEET;

THENCE N 17°14'35" W A DISTANCE OF 59.73 FEET;

THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 120 FEET THROUGH A CENTRAL ANGLE OF 66°44'02" AN ARC DISTANCE OF 139.77 FEET;

THENCE N 49°29'27" E A DISTANCE OF 46.13 FEET;

THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 180 FEET THROUGH A CENTRAL ANGLE OF 38°11'50" AN ARC DISTANCE OF 120.00 FEET;

THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 120 FEET THROUGH A CENTRAL ANGLE 38°11'50" AN ARC DISTANCE OF 80.00 FEET;

THENCE N 26°54'13" W A DISTANCE OF 136.00 FEET;

THENCE S 70°52'40" W A DISTANCE OF 197.91 FEET;

THENCE N 19°07'20" W A DISTANCE OF 61.28 FEET;

THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 150 FEET THROUGH A CENTRAL ANGLE OF 90° AN ARC DISTANCE OF 235.62 FEET;

THENCE N 70°52'40" E A DISTANCE OF 102.57 FEET;

THENCE N 84°41'17" E A DISTANCE OF 144.35 FEET;

THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 180 FEET THROUGH A CENTRAL ANGLE OF 83°19'22" AN ARC DISTANCE OF 261.77 FEET;

THENCE N 01°21'55" E A DISTANCE OF 74.55 FEET;

THENCE S 88°38'05" E A DISTANCE OF 143.00 FEET;

THENCE S 01°21'55" W A DISTANCE OF 48.14 FEET;

THENCE S 88°38'05" E A DISTANCE OF 40.00 FEET;

THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 430 FEET, THE CENTER OF WHICH BEARS N 88°38'05" W, THROUGH A CENTRAL ANGLE OF 49°28'25" AN ARC DISTANCE OF 371.30 FEET;

THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 150 FEET THROUGH A CENTRAL ANGLE OF 23°25'03" AN ARC DISTANCE OF 61.31 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING AN AREA OF 9.028 ACRES.

SITUATE IN WHATCOM COUNTY, WASHINGTON STATE.

END OF DESCRIPTION

EXHIBIT A - Page 3 of 3
Construction Contract Award for 2013 Hot Mix Asphalt Prelevel at Various Locations, Bid 13-27

ATTACHMENTS:
1. Request Memo
2. Approval for Construction Contract Award (Endorsed by County Executive)
3. Project Location Summary with Quantities
4. Bid Tabulation
5. Low Bid Proposal

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Construction Contract Award for 2013 Hot Mix Asphalt Prelevel at Various Locations, Bid 13-27, to Whatcom Builders, Inc., as low bidder in the amount of $1,036,293.25.

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: www.co.whatcom.wa.us/council.
MEMORANDUM

TO: The Honorable Jack Louws, County Executive and Honorable Members of the Whatcom County Council

THROUGH: Frank M. Abart, PW Director

FROM: Jeff Gollen, PW Maintenance & Operations Superintendent
       Joseph P. Rutan, P.E., PW Assistant Director/County Engineer

RE: Bid 13-27, 2013 Hot Mix Asphalt Prelevel at Various Locations Construction Contract Award (Whatcom Builders, Inc.)

DATE: March 21, 2013

Requested Action
Approval requested to award the bid and subsequent standard construction contract for the 2013 Hot Mix Asphalt Prelevel at Various Locations to the lowest responsive bidder, Whatcom Builders, Inc. in Bellingham, Washington, in the amount of $1,036,293.25.

Attached for your review and signature is the standard construction contract award package consisting of: 1) an agenda bill; 2) request memo; 3) Approval for Contract Award (endorsed by the County Executive); 3) Project Location Summary with Quantities; 4) Bid Tabulation (of all bids); and 5) the low Bid Proposal.

Background and Purpose
Bids were duly advertised and submitted for the annual hot mix asphalt prelevel at various locations. As part of the annual maintenance and repair on various county roads and on county road projects, the Public Works Maintenance and Operations Division contracts out the prelevel project. Two bid responses were received Tuesday, March 19, 2013. See attached bid tabulation listing in further detail the two bid proposals received along with the Engineer’s estimate along with the Project Location Summary with Quantities sheet listing in further detail the specific locations around the County proposed for the prelevel project. Factoring in costs for mobilization, signing and traffic control, pavement repair, seeded law installation, and hot mix asphalt prelevel 3/8" Whatcom Builders, Inc. is the overall lowest responsive bidder for the 2013 Hot Mix Asphalt Prelevel Project.

Funding Amount and Source
Adequate funds exist within the 2013 Budget Road Fund Expenditure. These are regularly budgeted expenditures for prelevel, which is used on an annual basis as needed and has been budgeted during the 2013-2014 Budget process.

Recommended Action
Please approve this purchase and forward to the Executive and the Whatcom County Council for approval at the April 9, 2013 Whatcom County Council Meeting. Please contact Jeff Gollen at extension 50660, if you have any questions or concerns.

Enclosures

In accordance with WCC 3.08.030, I concur with this recommendation.

[Signatures]

Date: 3/29/13
2013 Hot Mix Asphalt Prelevel at Various Locations

Bid 13-27

APPROVAL FOR CONTRACT AWARD

Approval is hereby granted to award the construction contract as follows:

PROJECT: 2013 Hot Mix Asphalt Prelevel at Various Locations

TO: Whatcom Builders, Inc.

Contract approved in the amount of their bid proposal of $1,036,293.25 including all taxes.

WHATCOM COUNTY
Approved:

______________________________  ____________________
Jack Louws, Whatcom County Executive  Date
Approving Authority

Approved as to form:

______________________________  ____________________
Daniel L. Gibson  03/29/13
Assistant Chief Civil Deputy Prosecuting Attorney  Date
## 2013 Hot Mix Asphalt Prelevel At Various Locations, Bid 13-27
### Project Location Summary with Quantities

**PROPOSED ROADS FOR PRELEVEL 2013**

<table>
<thead>
<tr>
<th>Road No.</th>
<th>Road Name</th>
<th>Mile Post</th>
<th>Tons Per Road</th>
</tr>
</thead>
<tbody>
<tr>
<td>53670</td>
<td>E. Axton Rd.</td>
<td>.118 to 1.946</td>
<td>2,201</td>
</tr>
<tr>
<td>76500</td>
<td>Clarkson Rd.</td>
<td>.116 to .231</td>
<td>206</td>
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<tr>
<td>56420</td>
<td>Ten Mile Rd.</td>
<td>2.49 to 2.626</td>
<td>139</td>
</tr>
<tr>
<td>56420</td>
<td>Ten Mile Rd.</td>
<td>2.96 to 3.14</td>
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<td>Ten Mile Rd.</td>
<td>3.16 to 3.42</td>
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<tr>
<td>56420</td>
<td>Ten Mile Rd.</td>
<td>3.82 to 3.94</td>
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<tr>
<td>55410</td>
<td>Van Dyk Rd.</td>
<td>.00 to .49</td>
<td>440</td>
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<tr>
<td>59000</td>
<td>Huisman</td>
<td>.00 to .25</td>
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<tr>
<td>70160</td>
<td>Laurel Rd., W.</td>
<td>.32 to .42</td>
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<td>70160</td>
<td>Laurel Rd., W.</td>
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<td>137</td>
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<td>Laurel Rd., W.</td>
<td>.98 to 1.05</td>
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<td>Laurel Rd., W.</td>
<td>1.20 to 2.03</td>
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<td>76320</td>
<td>Hemmi Rd., W.</td>
<td>.215 to 2.18</td>
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<td>Hemmi Rd., W.</td>
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<td>Hemmi Rd., W.</td>
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<td>73750</td>
<td>Aldrich Rd.</td>
<td>3.70 to 3.98</td>
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<td>4.11 to 4.350</td>
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<td>Aldrich Rd.</td>
<td>5.394 to 5.404</td>
<td>12</td>
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<tr>
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<td>Aldrich Rd.</td>
<td>5.412 to 5.420</td>
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<td>Old Guide Rd.</td>
<td>.22 to 1.51</td>
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<td>Northwest Ave.</td>
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<td>Northwest Ave.</td>
<td>.78 to .84</td>
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<td>75210</td>
<td>W. Wiser Lk. Rd.</td>
<td>.11 to .29</td>
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<td>W. Wiser Lk. Rd.</td>
<td>.68 to .87</td>
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<td>Road No.</td>
<td>Road Name</td>
<td>Mile Post</td>
<td>Tons Per Road</td>
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<tr>
<td>---------</td>
<td>----------------------</td>
<td>--------------</td>
<td>---------------</td>
</tr>
<tr>
<td>75210</td>
<td>W. Wiser Lk. Rd.</td>
<td>1.13 to 1.29</td>
<td>163</td>
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<td>1.37 to 1.65</td>
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<td>75210</td>
<td>W. Wiser Lk. Rd.</td>
<td>1.77 to 2.58</td>
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<td>55550</td>
<td>Noon Rd.</td>
<td>2.53 to 2.56</td>
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<td>55550</td>
<td>Noon Rd.</td>
<td>3.11 to 3.21</td>
<td>98</td>
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<td>55230</td>
<td>Everson Goshen</td>
<td>3.0 to 4.0</td>
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<td>55210</td>
<td>E. Wiser Lk. Rd.</td>
<td>.06 to .44</td>
<td>188</td>
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</table>

Proposed Roads Subtotal  11,807

ALTERNATE ROADS FOR PRELEVEL 2013

<table>
<thead>
<tr>
<th>Road No.</th>
<th>Road Name</th>
<th>Mile Post</th>
<th>Tons Per Road</th>
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<tbody>
<tr>
<td>73592</td>
<td>Waschke Rd.</td>
<td>.584 to 1.023</td>
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<td>76970</td>
<td>Ritter Rd.</td>
<td>.015 to .267</td>
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<td>76211</td>
<td>Paradise Rd.</td>
<td>.644 to 1.640</td>
<td>1,003</td>
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<td>58750</td>
<td>Meadowlark</td>
<td>.047 to .18</td>
<td>135</td>
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<tr>
<td>59170</td>
<td>Polinder</td>
<td>1.53 to 1.69</td>
<td>154</td>
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</table>

Alternate Roads Subtotal  1,917

Proposed and Alternate Roads Total  13,724
# BID TABULATION
## 2013 Hot Mix Asphalt Prelevel at Various Locations
### Bid 13-27

<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>QUANTITY</th>
<th>ITEM</th>
<th>ENGINEER ESTIMATE</th>
<th>GRANITE CONSTRUCTION COMPANY</th>
<th>WHATCOM/BUILDERS INC.</th>
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<tr>
<td></td>
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<td>UNIT PRICE</td>
<td>TOTAL</td>
<td>UNIT PRICE</td>
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<tr>
<td>1</td>
<td>LUMP SUM</td>
<td>Mobilization</td>
<td>$50,000.00</td>
<td>$1,000.00</td>
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<td>2</td>
<td>1000 HOURS</td>
<td>Signing and Traffic Control</td>
<td>$45.00 Per Hour</td>
<td>$36.00 Per Hour</td>
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<td>3</td>
<td>FORCE ACCOUNT</td>
<td>Pavement Repair</td>
<td>$10,000.00 F.A.</td>
<td>$10,000.00 F.A.</td>
<td>$10,000.00 F.A.</td>
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<td>4</td>
<td>FORCE ACCOUNT</td>
<td>Seeded Lawn Installation</td>
<td>$5,000.00 F.A.</td>
<td>$5,000.00 F.A.</td>
<td>$5,000.00 F.A.</td>
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<tr>
<td>5</td>
<td>11,807 TONS</td>
<td>Hot Mix Asphalt Class 3/8&quot; (Proposed Roads at Various Locations)</td>
<td>$72.00 Per Ton</td>
<td>$350,104.00 Per Ton</td>
<td>$861,911.00 Per Ton</td>
</tr>
<tr>
<td>6</td>
<td>1,917 TONS</td>
<td>Hot Mix Asphalt Class 3/8&quot; (Alternate Roads at Various Locations)</td>
<td>$72.50 Per Ton</td>
<td>$138,925.50 Per Ton</td>
<td>$134,190.00 Per Ton</td>
</tr>
</tbody>
</table>

**TOTAL BID**

- $1,099,086.50
- $1,047,101.00
- $1,036,293.25

I hereby certify that the amounts shown herein are a correct and accurate representation of the amounts from the Engineer estimate and represents the bid proposals opened at 2:30 p.m., March 19, 2013, for the 2013 Hot Mix Asphalt Prelevel at Various Locations, Project 13-27.

Joseph P. Rutan, P.E., County Engineer/Assistant Director

STATE OF WASHINGTON )
COUNTY OF WHATCOM )

On this day personally appeared before me, Joseph P. Rutan, P.E., to me known to be the individual described in and who executed the within and foregoing instrument this 29th day of MARCH, 2013.

NOTARY PUBLIC, residing at: Blaine, WA

My Commission Expires: 8/18/2013

Frank M. About

2013 HMA Prelevel Bid (Bid 13-27) 31

Bid Tabulation

FINAL: 03/21/2013
BID PROPOSAL

2013 HOT MIX ASPHALT PRELEVEL
AT VARIOUS LOCATIONS
BID 13-27

Date: March 19, 2013

TO: Whatcom County Executive and Council
Whatcom County Courthouse
311 Grand Avenue
Bellingham, Washington 98225

Gentlepersons:

This certifies that the Undersigned has examined the location of the project site and the conditions of work; and has carefully read and thoroughly understands the contract documents entitled: "2013 Hot Mix Asphalt Prelevel at Various Locations", Whatcom County, Washington, including the "Bid Procedures and Conditions", "Specifications and Conditions", "Contract Forms" and "Plans" governing the work embraced in this project, and the method by which payment will be made for said work.

The Undersigned hereby proposes to undertake and complete the work embraced in this project in accordance with said contract documents, and agrees to accept as payment for said work, the schedule of lump sum and unit prices as set forth in the "Bid" below.

The Undersigned acknowledges that payment will be based on the actual work performed and material used as measured or provided for in accordance with the said contract documents, and that no additional compensation will be allowed for any taxes not included in each lump sum or unit price, and that the basis for payment will be the actual work performed and measured or provided for in accordance with the said contract documents.

Company Name: Whatcom Builders, Inc
Submitted By: Richard L. Owens, General Manager
# 2013 HOT MIX ASPHALT PRELEVEL
## AT VARIOUS LOCATIONS
### BID 13-27

<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>APPROXIMATE QUANTITY</th>
<th>ITEM &amp; WRITTEN UNIT PRICE</th>
<th>UNIT PRICE</th>
<th>TOTAL</th>
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<tr>
<td>1.</td>
<td>LUMP SUM</td>
<td>MOBILIZATION</td>
<td>L.S.</td>
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<td></td>
<td></td>
<td>Twenty-Five Thousand and 50/100 Dollars</td>
<td>(Written Lump Sum Price)</td>
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<td>2.</td>
<td>1000 HOURS</td>
<td>SIGNING AND TRAFFIC CONTROL</td>
<td>Forty-Eight and 15/100 Dollars</td>
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<td>(Written Unit Price Per Hour)</td>
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<td>3.</td>
<td>FORCE ACCOUNT</td>
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<td>Ten Thousand Dollars &amp; No/100 Cents</td>
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<td>Five Thousand Dollars &amp; No/100 Cents</td>
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<td>5.</td>
<td>11,807 TONS</td>
<td>HOT MIX ASPHALT CLASS 3/8&quot;</td>
<td>Sixty-Nine and 15/100 Dollars</td>
<td>$69.75</td>
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<td></td>
<td>(Proposed Roads at Various Locations)</td>
<td>(Written Unit Price Per Ton)</td>
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<td>6.</td>
<td>1,017 TONS</td>
<td>HOT MIX ASPHALT CLASS 3/8&quot;</td>
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<td>(Alternate Roads at Various Locations)</td>
<td>(Written Unit Price Per Ton)</td>
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<td><strong>TOTAL</strong></td>
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<td><strong>$1,036,293.25</strong></td>
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## TOTAL BID – ITEMS 1 THROUGH 6

| One Million, Thirty-Six Thousand, Two Hundred Ninety-Three DOLLARS |
| Twenty-Five CENTS |

- 10 -
NON-COLLUSION DECLARATION

2013 HOT MIX ASPHALT PRELEVEL
AT VARIOUS LOCATIONS
BID 13-27

I, by signing the proposal, hereby declare, under penalty of perjury under the laws of the United States that the following statements are true and correct:

1. That the undersigned person(s) firm, association or corporation has (have) not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the project for which this proposal is submitted.

2. That by signing the signature page of this proposal, I am deemed to have signed and have agreed to the provisions of this declaration.

NOTICE TO ALL BIDDERS

To report bid rigging activities call:

1-800-424-9071

The U.S. Department of Transportation (USDOT) operates the above toll-free “hotline” Monday through Friday, 8:00 a.m. to 5:00 p.m. Eastern Time. Anyone with knowledge of possible bid rigging, bidder collusion, or other fraudulent activities should use the “hotline” to report such activities.

The “hotline” is part of USDOT’s continuing effort to identify and investigate highway construction contract fraud and abuse, and is operated under the direction of the USDOT inspector General. All information will be treated confidentially and caller anonymity will be respected.
BIDDER IDENTIFICATION

The name of the Bidder submitting this proposal, the address and phone number to which all communications concerned with this proposal shall be made, and the number which has been assigned indicating the Bidder is licensed to do business in the State of Washington are as follows:

Firm Name: Whatcom Builders, Inc
Address: 703 E Laurel Rd
         Bellingham WA 98226
Telephone Number: 360 398-1427   Fax Number: 360 398-8361
Contact Name: Rich Owens
Contact Phone: 360 507-3932
Contact Email: richo@whatcombuilders.com
Contractor's WA Registration Number: WHATCI-341J5
Contractor's WA UBI Number: 601 350 918
Contractor's WA Employment Security Department Number: 736615009
Contractor's WA Excise Tax Registration Number: 601 350 918

The Firm submitting this proposal is a:

☐ Sole Proprietorship
☐ Partnership
☒ Corporation

The names and titles of the principal officers of the corporation submitting this proposal, or of the partnership, or of all persons interested in this proposal as principals are as follows:

Mike Lee              President
Hank Waggoner         Secretary/Treasurer
Rich Owens           General Manager

NOTE: Signatures of this proposal must be identified above. Failure to identify the Signatories will be cause for considering the proposal irregular and for subsequent rejection of the bid.
BID PROPOSAL SIGNATURE AND ADDENDUM
ACKNOWLEDGMENT

The Bidder is hereby advised that by signature of this proposal he/she is deemed to have acknowledged all requirements and signed all certificates contained herein. The undersigned hereby agrees to pay labor not less than the prevailing rates of wages or less than the hourly minimum rate of wages as specified in the Specifications and Conditions for this project.

CASHIER'S CHECK □ ____________________________________ DOLLARS

CERTIFIED CHECK □ ($ ______________) PAYABLE TO WHATCOM COUNTY

PROPOSAL BOND □ ($ ______________) IN THE AMOUNT OF 5% OF THE BID

Receipt is hereby acknowledged by addendum(s) No.(s) ____, ____, & ____.

SIGNATURE OF AUTHORIZED OFFICIAL(S)

(Proposal Must Be Signed)  Richard Lowens  

________________________________________ (Seal)

FIRM NAME: Whatcom Builders Inc

STATE OF WASHINGTON )
COUNTY OF WHATCOM ) ss.

On this 19th day of March, 2013, before me personally appeared Richard Lowens to me known to be the person described in and who executed the above instrument and who acknowledged to me the act of signing sealing thereof.

Heather Rozet Anker
NOTARY PUBLIC in and for the State of Washington, residing at Lynden
My commission expires: 10/25/13

NOTE: This proposal form is not transferable and any alteration of the firm's name entered hereon without prior permission from Whatcom County will be cause for considering the proposal irregular and for subsequent rejection of the bid.
SUBCONTRACTOR LIST

WHATCOM COUNTY
DEPARTMENT OF PUBLIC WORKS

SUBCONTRACTOR LIST
Prepared in compliance with RCW 39.30.060 as amended

TO BE SUBMITTED WITH THE BID PROPOSAL

Project Name: 2013 Hot Mix Asphalt Prelevel at Various Locations

Failure to list subcontractors who are proposed to perform the work of heating, ventilation and air conditioning, plumbing, as described in Chapter 18.106 RCW, and electrical work as described in Chapter 19.28 RCW will result in your bid being non-responsive and therefore void.

Subcontractor(s) that are proposed to perform the work of heating, ventilation and air conditioning, plumbing as described in Chapter 18.106 RCW, and electrical work as described in Chapter 19.28 RCW must be listed below. The work to be performed is to be listed below the subcontractor(s) name.

If no subcontractor is listed below, the bidder acknowledges that it does not intend to use any subcontractor to perform those items of work.

<table>
<thead>
<tr>
<th>Subcontractor Name</th>
<th>Work to be Performed</th>
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- 15 -
**WHATCOM COUNTY COUNCIL AGENDA BILL**

<table>
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<tr>
<th>CLEARANCES</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to:</th>
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<td>Division Head:</td>
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<td>Dept. Head:</td>
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<td>Prosecutor:</td>
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<tr>
<td>Executive:</td>
<td></td>
<td>4/1/13</td>
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**TITLE OF DOCUMENT:** Award of Bid 13-19 Janitorial Supplies

**ATTACHMENTS:** Memos from Finance and the Facilities Management

SEPA review required? ( ) Yes ( ) NO  
SEPA review completed? ( ) Yes ( ) NO

Should Clerk schedule a hearing? ( ) Yes ( ) NO

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Administrative Services Facilities Management is requesting approval to award Bid 13-19 for Janitorial Supplies to the low bidder, Grainger for the approximate annual amount of $39,633.02. Two bids were received. This is a planned regular purchase and funds have been approved in the current budget.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

**Please Note:** Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: [www.co.whatcom.wa.us/council](http://www.co.whatcom.wa.us/council).
DATE: 28 March 2013
TO: Jack Louws, County Executive
FROM: Brad Bennett, Administrative Services Finance Manager
SUBJECT: Award of Bid 13-19, Janitorial Supplies

- **Background & Purpose**
  Bids were advertised for Janitorial Supplies, Towels & Tissue for Facilities Management and the Jail. Two bids were received on Tuesday March 5 and are noted below.

<table>
<thead>
<tr>
<th>Vendor</th>
<th>Approximate Monthly Amount</th>
<th>Subtotal 12 Months</th>
<th>Sales Tax</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grainger</td>
<td>3,038.41</td>
<td>36,460.92</td>
<td>3,172.10</td>
<td>39,633.02</td>
</tr>
<tr>
<td>Bay City Supply</td>
<td>3,165.08</td>
<td>37,980.96</td>
<td>3,304.35</td>
<td>41,285.31</td>
</tr>
</tbody>
</table>

Bids were based on a list of the most commonly used products and approximate quantities. A tabulation of prices is attached.

Facilities Management is requesting approval to award to the low bidder, Grainger for an approximate amount of $39,633.02.

- **Funding**
  This is a regular ongoing expenditure and funds were approved in the current budget.

  I concur with this request.

  [Signature]
  Admin. Services Finance Manager

Approved as recommended:

___________________________
County Executive

Date of Council Action ___________
<table>
<thead>
<tr>
<th>Item</th>
<th>Price Per Case</th>
<th>Quantity</th>
<th>Case</th>
<th>Size</th>
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<tbody>
<tr>
<td>Item 1</td>
<td>$100.00</td>
<td>10</td>
<td>Case</td>
<td>Medium</td>
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<tr>
<td>Item 2</td>
<td>$150.00</td>
<td>5</td>
<td>Case</td>
<td>Large</td>
</tr>
<tr>
<td>Item 3</td>
<td>$200.00</td>
<td>2</td>
<td>Case</td>
<td>Extra-Large</td>
</tr>
</tbody>
</table>

**Product:** Janitorial Supplies

**Tabulation:**
- Bay City Supply
- Greenster
MEMO TO:  Brad Bennett, Finance Manager

FROM:  Craig Cummings, Facilities Lead

DATE:  March 28, 2013

RE:  Recommend to Accept Bid Award #13-19 – Janitorial Supplies

On Tuesday, March 5, 2013 three bids were received in response to Whatcom County Bid #13-19, Janitorial Supplies for Whatcom County. The following bids were received:

Bay City Supply in the amount of: $37,980.96
Grainger in the amount of: $36,460.92
Central Poly Corp

Grainger met all of the required specifications for performing the work required for this project. It is the recommendation of this office that the low bid submitted by Grainger be accepted.

Funding amount needed for this contract is based on the monthly usage of janitorial supplies. Facilities has a current budget of $15,000 for paper products and $25,000 for Janitorial Supplies.

Funding was provided in the current ongoing Facilities 2013 Budget

If you need additional information, please contact me at extension 50575.
TITLE OF DOCUMENT: Award of Bid 13-08 Supply of Quarry Rock & Gravel

ATTACHMENTS: Memos from Finance and the Public Works

SEPA review required? ( ) Yes (x) NO
SEPA review completed? ( ) Yes (x) NO

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Public Works Maintenance & Operations requested bids for the annual supply of quarry rock, gravel & other materials for use as needed in various county road maintenance projects. They would like approval to accept all bids and select the appropriate vendor as dictated by the special circumstances of the particular job. This is a regularly budgeted expenditure and funds have been approved in the 2013 budget. Product is purchased on an as need basis and expenditures will exceed $35,000.

COMMITTEE ACTION:

COUNCIL ACTION:

Related County Contract #: Related File Numbers: Ordinance or Resolution Number:

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: www.co.whatcom.wa.us/council.
DATE: 28 March 2013
TO: Jack Louws, County Executive
FROM: Brad Bennett, AS Finance Manager
SUBJECT: Award of Bid 13-08 - Annual Supply of Quarry Rock, Gravel & Other Materials

BACKGROUND & PURPOSE
Bids were advertised for the annual supply of quarry rock, gravel and other materials for various Public Works Maintenance & Operations projects as needed in 2013. Six firms submitted bids on Tuesday March 12. A tabulation of the prices is attached.

Generally the County will select the supplier submitting the lowest bid price for the specific material needed. However, under special circumstances, the County may select the supplier or suppliers that best meet the requirements for that particular job based on criteria other than lowest bid price.

Special circumstances which may be considered include:
- Differences in ability to deliver
- Delivery time
- Availability of material
- Special loading or unloading conditions
- Total cost including transport and or labor, if not included with bid item
- Performance of the delivered material
- Location of the source
- Proximity to the delivery point

If the materials of the lowest priced vendor do not meet specifications for a particular job, or if a pattern of failing to meet specifications is apparent to the County, the County reserves the right to use the next lowest qualifying bidder, in light of the special circumstances noted above. All gravel must be obtained from pits that are in compliance with all applicable laws and regulations. Public Works recommends accepting all bids received.

FUNDING
This is a regularly budgeted item and funds have been approved in the 2013 budget. Product is purchased on an as needed basis and more than $35,000.00 will be spent on this commodity in 2013. I concur with this recommendation.

[Signature]
Administrative Services Finance Manager

Approved As Recommended:

County Executive [Signature] Date of Council Action [Signature]
| Rock, Gravel, Soil | Tabulation Bid 13-08 |

| **Super Quality Bitumineous** | 36.50 |
| **Concrete Coarse** | 36.20 |
| **Femdale Ready Mix** | 36.00 |
| **Super Premium** | 34.00 |

| **Super Quality** | 30.00 |
| **Concrete Coarse** | 27.60 |
| **Femdale Ready Mix** | 27.00 |
| **Super Premium** | 22.75 |

| **Classen Quarry** | 22.00 |
| **Lummis Island** | 20.00 |
| **Classen Quarry** | 18.00 |
| **Pt Roberts - Dolly** | 14.00 |

| **Classen West** | 12.50 |
| **One Rock** | 11.25 |
| **Two Rock** | 10.00 |
| **Three Rock** | 8.25 |
| **Four Rock** | 8.00 |
| **Five Rock** | 8.00 |
| **Six Rock** | 8.00 |
| **Rock** | 8.00 |
| **Dilled** | 7.50 |

| **Super Quality** | 7.75 |
| **Concrete Coarse** | 7.75 |
| **Femdale Ready Mix** | 7.75 |
| **Super Premium** | 7.75 |

| **Classen Quarry** | 7.75 |
| **Lummis Island** | 7.75 |
| **Classen Quarry** | 7.75 |
| **Pt Roberts - Dolly** | 7.75 |

| **Classen West** | 7.75 |
| **One Rock** | 7.75 |
| **Two Rock** | 7.75 |
| **Three Rock** | 7.75 |
| **Four Rock** | 7.75 |
| **Five Rock** | 7.75 |
| **Six Rock** | 7.75 |
| **Rock** | 7.75 |
| **Dilled** | 7.75 |

| **Super Quality** | 7.75 |
| **Concrete Coarse** | 7.75 |
| **Femdale Ready Mix** | 7.75 |
| **Super Premium** | 7.75 |

| **Classen Quarry** | 7.75 |
| **Lummis Island** | 7.75 |
| **Classen Quarry** | 7.75 |
| **Pt Roberts - Dolly** | 7.75 |

<p>| <strong>Classen West</strong> | 7.75 |
| <strong>One Rock</strong> | 7.75 |
| <strong>Two Rock</strong> | 7.75 |
| <strong>Three Rock</strong> | 7.75 |
| <strong>Four Rock</strong> | 7.75 |
| <strong>Five Rock</strong> | 7.75 |
| <strong>Six Rock</strong> | 7.75 |
| <strong>Rock</strong> | 7.75 |
| <strong>Dilled</strong> | 7.75 |</p>
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<thead>
<tr>
<th>Product</th>
<th>Super Quarry</th>
<th>Granite Coast</th>
<th>Enfield Ready Mix</th>
<th>Concrete NorthWest</th>
<th>Claytown</th>
<th>Chisum</th>
<th>Carlsbad</th>
<th>Cruces</th>
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**Aggregate West**

<table>
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<tr>
<th>Product</th>
<th>Super Quarry</th>
<th>Granite Coast</th>
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MEMORANDUM

TO: Brad Bennett, AS Finance Manager

THROUGH: Frank M. Abart, PW Director

FROM: Eric L. Schlehuber, PW Equipment Services Manager
       Jeff Gollen, PW Maintenance & Operations Superintendent

RE: Bid 13-08, 2013-2014 Annual Supply of Rock, Gravel, and Soil

DATE: March 19, 2013

- Requested Action
  I am requesting Executive and Council approval to purchase rock, gravel, and soil as needed during 2013-2014 from any of the following vendors: Aggregates West, Inc., Clauson Quarry LLC, Concrete Nor’West, Ferndale Ready Mix, Inc., Granite Construction Company, and Siper Quarry LLC. Consideration will be given as to the differences in ability to deliver, delivery time, availability of material, special loading or unloading conditions, total cost including transport if not included with bid item, performance of the delivered material, location of the source, and proximity to the delivery point.

- Background and Purpose
  Bids were duly advertised for the supply of rock, gravel, and soil. The purpose of this bid is to establish firm prices for the purchase of rock, gravel, and soil for use on various Public Works and Parks & Recreation projects during 2013 through June 30, 2014. The Maintenance & Operations Division of the Public Works Department and the Parks & Recreation Department uses these materials regularly for annual maintenance on county roads, beaches, county road projects, and parks. Bid responses were received Tuesday, March 12, 2013. We received good responses from six vendors (total of eleven locations). Attached is a copy of the Whatcom County Bid Opening Results which lists the price for each category type of rock, gravel, and soil.

- Funding Amount and Source
  These are regularly budgeted expenditures for material, which are used on an annual basis as needed and have been budgeted during the 2013-2014 Budget process. Based on prior and estimated usage it is anticipated total expenditures will exceed $35,000 and therefore requires Whatcom County Council approval.

- Recommendation
  Please approve this purchase and forward to the Executive and the Whatcom County Council for approval at the April 9, 2013 Whatcom County Council Meeting. Please contact Eric L. Schlehuber at extension 50607, if you have any questions or concerns.

Encl.

Cc: Parks Operations Manager
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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**TITLE OF DOCUMENT:**
Discussion of potential purchase of 28 acres in Everson for SW project

**ATTACHMENTS:**

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<th>Should Clerk schedule a hearing?</th>
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**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

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<th>Related County Contract #:</th>
<th>Related File Numbers</th>
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*Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.*
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

Initial Date Date Received in Council Office Agenda Date Assigned to:

Originator: Josh Fleischmann 03/27/13 4/09/2013 P&D Committee

Division Head: Mark Personius 03/27/13

Dept. Head: J.E. "Sam" Ryan

Prosecutor: Karen Frakes

Purchasing/Budget:

Executive: Jack Loues

TITLE OF DOCUMENT:

Ordinance amending the Whatcom County Code to allow packinghouses in the Agriculture Zoning District

ATTACHMENTS:

1) Staff memo to Council
2) Proposed Ordinance

SEPA review required? (X) Yes ( ) NO

SEPA review completed? (X) Yes ( ) NO

Should Clerk schedule a hearing? (X) Yes ( ) NO

Requested Date:

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

To allow packinghouses of up to 10,000 square feet as an accessory use, or greater than 10,000 square feet as a conditional use. Review criteria include limits on out-of-county livestock, adequate services by necessary facilities, an approved and implemented waste management plan, appropriate vehicular approaches, limits on, noxious emissions, and requires avoidance of prime soils to the extent feasible, among other criteria.

COMMITTEE ACTION:

COUNCIL ACTION:

Related County Contract #: Related File Numbers: Ordinance or Resolution Number:

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: www.co.whatcom.wa.us/council. 48
Memorandum

TO: Whatcom County Council
FROM: Joshua Fleischmann, Planner
THROUGH: Mark Personius, Long Range Planning Manager
DATE: March 27, 2013
SUBJECT: Packinghouses Zoning Text Amendment, RE: PLN2012-00008

The attached Exhibit A was provided to the Planning and Development Committee for their March 12th meeting. Shortly before that meeting, Planning Commissioner Ben Elenbaas provided an e-mail to Council with comments for consideration. After the meeting, Planning and Development Staff reviewed the recommendations and, following discussions with Commissioner Elenbaas and Councilmember Knutzen, have drafted the attached Exhibit B in response to the comments.

The changes from Exhibit A to Exhibit B include:
- Addition of new definition for Packinghouse.
- Addition of new definition for Slaughterhouse.
- Addition of new definition for Poultry
- Removal of proposed Agricultural Slaughtering Facility, Cooking and Smoking, and Kill Floor definitions.
- Leaving Slaughterhouses as prohibited uses in the Agriculture district.
- Changing existing language for Agricultural Slaughtering Facilities to Slaughterhouses as Administrative approval uses in the RIM zone.
- Changing proposed new language for “Agricultural slaughtering facilities” to “Packinghouses”.
- Increase Accessory uses size limitation from 5,000sf to 10,000sf.
- Remove limitations on building area for Conditional uses.
- Remove limits on external holding pens and kill floor sizing.
- Addition of requirement for implementation of approved waste management plan.
- Removal of limitation on number of facilities.

Additionally, subsequent to the March 12th meeting, Planning and Development Staff met with Jeff Hagedeus and Kyle Dodd of the Whatcom County Health Department to discuss concerns that have been raised by the public regarding the waste disposal methods of the singular USDA approved slaughtering facility located in Whatcom County. The Whatcom County Health Department has concerns about
the criteria in Exhibit B that states “The facility shall provide and implement a waste management plan, approved by the Whatcom County Health Department.” These concerns relate to jurisdictional authority to regulate these wastes, as well as general oversight of waste management.

Wastewater from a packinghouse can be legally treated in a number of manners. Wastewater cannot, however, be discharged to a domestic septic system. Blood and washdown wastewater are considered industrial waste, not domestic waste, and therefore cannot be treated through a septic system. The common approved methods of disposal for these industrial wastes are through the Land application permit from the Department of Ecology, tanking and trucking to an anaerobic digester, or tanking and trucking to a publically owned treatment works. Jeff and Kyle will be attending the April 9th Planning and Development Committee meeting to discuss their concerns and to answer your questions.
EXHIBIT A

Chapter 20.40 AGRICULTURE (AG) DISTRICT
20.40.100 Accessory Uses

.111 The processing of agricultural products that originate from the permitted uses in WCC 20.40.050, provided the following criteria are met:

(1) The facility is not an agricultural slaughtering facility, slaughterhouse or mushroom substrate production facility.
(2) The facility is supplemental and related to the primary permitted use.
(3) The facility processes at least 50 percent agricultural goods produced in Whatcom County and that originate from permitted uses.
(4) The facility employs no more than 20 permanent employees.

.114 Agricultural slaughtering facilities, which shall be located, designed, and operated so as to not interfere with the overall agricultural character of the area, provided the following criteria are met:

(1) The total allowable building area is no larger than 5,000 square feet.
(2) External holding pens, designed to hold animals intended for immediate slaughter, shall be limited in size to no more than 25% of the agricultural slaughtering facility building area.
(3) The facility processes at least 50 percent agricultural goods produced in Whatcom County and that originate from uses permitted uses in WCC 20.40.051.
(4) The maximum square footage of the kill floor in such facilities shall not exceed 1,000 square feet.
(5) For purposes of public notice, the applicant shall submit stamped envelopes with typed addresses for each property owner within 1,000 feet of the external boundaries of the subject property as shown by the records of the county assessor.
(6) The facility will be serviced adequately by necessary facilities such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and wastewater treatment.
(7) The facility will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public streets.
(8) The building shall avoid prime agricultural soils to the extent feasible. Where the site is predominantly in prime soils and avoidance is not feasible, the applicant shall demonstrate that the buildings:
   (a) Are sized to be as small as feasible; and
   (b) Located to maximize the agricultural use of the remaining area; and
   (c) Achieve the most suitable locations in terms of minimizing roads, impervious surfaces, and allowing for water availability and septic suitability.
(9) There shall cumulatively be no more than six (6) agricultural slaughtering facilities, as defined in WCC 20.97.010.2, legally established as of the date of this ordinance and/or approved under either 20.40.114 or WCC 20.40.164 within the Agricultural (AG) District.
(10) Where an agricultural slaughtering facility, as identified in WCC 20.97.010.2, includes cooking and/or smoking, as identified in WCC 20.97.087.1, of animals slaughtered on site, the facility shall emit no noxious emissions that are detectable, at or beyond the property line for the use concerned, in such a concentration or of such duration as to cause a public nuisance, or threaten health or safety, or to unreasonably infringe upon the use of adjacent property.

20.40.130 Administrative Approval Uses
.137 The processing of agricultural products that originate from the permitted uses in WCC 20.40.050, provided the following criteria are met:
(1) The facility is not an agricultural slaughtering facility slaughterhouse or mushroom substrate production facility.
(2) The facility is supplemental and related to the primary permitted use.
(3) The facility processes at least 50 percent agricultural goods produced in Whatcom County and that originate from permitted uses.
(4) The facility employs over 20 permanent employees.
(5) In addition to the criteria listed above, the administrator shall ensure that only the following criteria from Chapter 20.84 WCC, Variances, Conditional Uses, Administrative Approval Uses and Appeals, are applied to on-farm processing application reviews:
   (a) The proposed location will be serviced adequately by necessary public facilities such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;
   (b) The proposed location will not create excessive additional requirements at public cost for public facilities and services, and will not be detrimental to the economic welfare of the community; and
   (c) The proposal will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public streets.

20.40.150 Conditional Uses
.164 Agricultural slaughtering facilities, which shall be located, designed, and operated so as to not interfere with the overall agricultural character of the area, provided the following criteria are met:
(1) The total allowable building area is between 5,000 and 10,000 square feet.
(2) External holding pens, designed to hold animals intended for immediate slaughter, shall be limited in size to no more than 25% of the agricultural slaughtering facility building area.
(3) The facility processes at least 50 percent agricultural goods produced in Whatcom County and that originate from uses permitted uses in WCC 20.40.051.
(4) The maximum square footage of the kill floor in such facilities shall not exceed 1,200 square feet.
(5) For the purposes of public notice, the applicant shall submit stamped envelopes with typed addresses for each property owner within 1,000 feet.
of the external boundaries of the subject property as shown by the records of the county assessor.

(6) The facility will be serviced adequately by necessary facilities such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and wastewater treatment.

(7) The facility will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public streets.

(8) The building shall avoid prime agricultural soils to the extent feasible. Where the site is predominantly in prime soils and avoidance is not feasible, the applicant shall demonstrate that the buildings:
(a) Are sized to be as small as feasible; and
(b) Located to maximize the agricultural use of the remaining area; and
(c) Achieve the most suitable locations in terms of minimizing roads, impervious surfaces, and allowing for water availability and septic suitability.

(9) There shall cumulatively be no more than six (6) agricultural slaughtering facilities, as defined in WCC 20.97.010.2, legally established as of the date of this ordinance and/or approved under either WCC 20.40.114 or WCC 20.40.164 within the Agricultural (AG) District.

(10) Where an agricultural slaughtering facility, as identified in WCC 20.97.010.2, includes cooking and/or smoking, as identified in WCC 20.97.087.1, of animals slaughtered on site, the facility shall emit no noxious emissions that are detectable, at or beyond the property line for the use concerned, in such a concentration of or such duration as to cause a public nuisance, or threaten health or safety, or to unreasonably infringe upon the use of adjacent property.

Chapter 20.36 RURAL (R) DISTRICT
20.36.130 Administrative approval uses.
.136 In R5A and R10A zoning districts, the processing of agricultural products that originate from the permitted uses in WCC 20.40.050, provided the following criteria are met:
(1) The facility is not an agricultural slaughtering facility slaughterhouse or mushroom substrate production facility.

20.36.150 Conditional uses.
20.36.163 In R5A and R10A zoning districts, the processing of agricultural products that originate from the permitted uses in WCC 20.40.050, provided the following criteria are met:
(1) The facility is not an agricultural slaughtering facility slaughterhouse or mushroom substrate production facility.

Chapter 20.80 Supplementary Requirements
20.80.200 Setback requirements
20.80.255 Agriculture District.
(1) The 50-foot front yard setback requirement for new buildings or additions may be waived if the zoning administrator finds the new building or addition is located along the same building line(s) of existing structures and will result in no additional encroachment, the public interest, safety and health are protected; provided, that for a new building the applicant shall also demonstrate that the proposed location is necessary for the economic viability and the continued operation of the agricultural use.
(2) The minimum separation between new residences not located on the same property and farm uses such as barns, pens, milking sheds, agricultural slaughtering facilities, or areas used to contain, house or feed animals or store manure or feed, shall be 300 feet. New farm uses such as barns, pens, milking sheds, agricultural slaughtering facilities, or areas used to contain, house or feed animals or store manure or feed, shall be situated at least 150 feet from existing residences not located on the same property. Expansion of existing facilities within the 150-foot buffer, providing such expansion is not closer to a neighbor’s residence, and pastures are excluded from this section’s requirements.
(3) The minimum separation between agricultural slaughtering facilities and schools shall be 500 feet.

20.97.010.2 Agricultural slaughtering facility
“Agricultural slaughtering facility” means a facility that engages in slaughtering, on or off site, and the processing of agricultural slaughter products in accordance with local, state, and federal health and agricultural regulations. Agricultural slaughtering facilities may include cooking and/or smoking of by-products of animals slaughtered on site, in accordance with USDA regulations. Rendering and importation of animal by-products is strictly prohibited in an agricultural slaughtering facility. Agricultural slaughtering facilities shall not slaughter poultry. Agricultural slaughtering facilities exclude temporary, mobile or other on-farm, owner-raised poultry slaughtering operations regulated under WAC 16-170 and/or RCW 69.07 that do not require USDA inspection. Agricultural producers who raise poultry may slaughter up to one thousand (1,000) poultry raised on their own farm annually subject to the special poultry permit requirements of WAC 16-170. Agricultural producers who process between one thousand (1,000) and twenty thousand (20,000) poultry a year on their farm are subject to the food processor license requirements of RCW 69.07.

20.97.087.1 Cooking and Smoking
“Cooking and Smoking” as defined by the USDA, Food Safety Inspection Service (FSIS) is a process involving smoking or other culinary preparation of meat products whereby fat is preserved as an integral component of the finished product. The result of cooking meat products includes bacon, sausages such as pepperoni, salami, and landjaeger, jerky, ham and roast beef. Cooked or fully cooked is defined as when a meat product has a cooked, ready-to-serve appearance. Usually attained at 148 degrees F for meat and meat food products. Cooking is considered to be a step in a
process, and is where a partial or full lethality is applied to the product to make it free of the pathogen or organism of concern.

20.97.192 Kill Floor
“Kill Floor” means the location within the agricultural slaughtering facility, as defined in WCC 20.97.010.2, where animals are killed, eviscerated, drained, and skinned for further processing into value added products for human consumption.

20.97.310 Poultry
“Poultry” means domesticated fowl that is valued for its meat or eggs such as chickens, turkeys, ducks or geese.

20.97.343 Rendering
“Rendering” means the process or business of producing tallow, grease, and high-protein meat and bone meal from animal by-products.

20.97.343.1 Rendering Plant
“Rendering plant” means a plant that processes animal by-product materials for the production of tallow, grease, and high-protein meat and bone meal.

20.97.424 Slaughtering
“Slaughtering” means the killing and processing of animals for human consumption.
EXHIBIT B

Chapter 20.40 AGRICULTURE (AG) DISTRICT
20.40.100 Accessory Uses

Packinghouses, which shall be located, designed, and operated so as to not interfere with the overall agricultural character of the area, provided the following criteria are met:

(1) The total allowable building area is no larger than 10,000 square feet.
(2) The facility processes at least 50 percent agricultural goods produced in Whatcom County and that originate from uses permitted in WCC 20.40.051.
(3) For purposes of public notice, the applicant shall submit stamped envelopes with typed addresses for each property owner within 1,000 feet of the external boundaries of the subject property as shown by the records of the county assessor.
(4) The facility will be serviced adequately by necessary facilities such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and wastewater treatment.
(5) The facility shall provide and implement a waste management plan, approved by the Whatcom County Health Department.
(6) The facility will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public streets.
(7) The building shall avoid prime agricultural soils to the extent feasible. Where the site is predominantly in prime soils and avoidance is not feasible, the applicant shall demonstrate that the buildings:
   a. Are sized to be as small as feasible; and
   b. Located to maximize the agricultural use of the remaining area; and
   c. Achieve the most suitable locations in terms of minimizing roads, impervious surfaces, and allowing for water availability and septic suitability.
(8) The packinghouse, as identified in WCC 20.97.282.1, shall emit no noxious emissions that are detectable, at or beyond the property line for the use concerned, in such a concentration or of such duration as to cause a public nuisance, or threaten health or safety, or to unreasonably infringe upon the use of adjacent property.

20.40.150 Conditional Uses

Packinghouses, which shall be located, designed, and operated so as to not interfere with the overall agricultural character of the area, provided the following criteria are met:

(1) The total allowable building area is larger than 10,000 square feet.
(2) The facility processes at least 50 percent agricultural goods produced in Whatcom County and that originate from permitted uses in WCC 20.40.051.
(3) The facility will be serviced adequately by necessary facilities such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and wastewater treatment.
(4) The facility shall provide and implement a waste management plan, approved by the Whatcom County Health Department.
(5) The facility will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public streets.
(6) The building shall avoid prime agricultural soils to the extent feasible. Where the site is predominantly in prime soils and avoidance is not feasible, the applicant shall demonstrate that the buildings: 
   a. Are sized to be as small as feasible; and 
   b. Located to maximize the agricultural use of the remaining area; and 
   c. Achieve the most suitable locations in terms of minimizing roads, impervious surfaces, and allowing for water availability and septic suitability.
(7) The packinghouse, as identified in WCC 20.97.282.1, shall emit no noxious emissions that are detectable, at or beyond the property line for the use concerned, in such a concentration or of such duration as to cause a public nuisance, or threaten health or safety, or to unreasonably infringe upon the use of adjacent property.

Chapter 20.69 Rural Industrial Manufacturing (RIM)
20.69.130 Administrative approval uses
20.69.131 Slaughterhouses. Agricultural slaughtering facilities, if done in compliance with WAC Title 16 (Department of Agriculture) and RCW Title 16 (Animals and Livestock):

Chapter 20.80 Supplementary Requirements
20.80.200 Setback requirements
20.80.255 Agriculture District.
(1) The 50-foot front yard setback requirement for new buildings or additions may be waived if the zoning administrator finds that the new building or addition is located along the same building line(s) of existing structures and will result in no additional encroachment, the public interest, safety and health are protected; provided, that for a new building the applicant shall also demonstrate that the proposed location is necessary for the economic viability and the continued operation of the agricultural use.
(2) The minimum separation between new residences not located on the same property and farm uses such as barns, pens, milking sheds, packinghouses, or areas
used to contain, house or feed animals or store manure or feed, shall be 300 feet. New farm uses such as barns, pens, milking sheds, packinghouses, or areas used to contain, house or feed animals or store manure or feed, shall be situated at least 150 feet from existing residences not located on the same property. Expansion of existing facilities within the 150-foot buffer, providing such expansion is not closer to a neighbor’s residence, and pastures are excluded from this section’s requirements. (3) The minimum separation between packinghouses and schools shall be 500 feet.

20.97.282.1 Packinghouse
“Packinghouse” means a plant that both slaughters animals and subsequently processes carcasses into cured, smoked, canned or other prepared meat products. Rendering and importation of animal by-products is strictly prohibited in packinghouses. Packinghouses shall not slaughter poultry. Packinghouses exclude temporary, mobile or other on-farm, owner-raised poultry slaughtering operations regulated under WAC 16-170 and/or RCW 69.07 that do not require USDA inspection. Agricultural producers who raise poultry may slaughter up to one thousand (1,000) poultry raised on their own farm annually subject to the special poultry permit requirements of WAC 16-170. Agricultural producers who process between one thousand (1,000) and twenty thousand (20,000) poultry a year on their farm are subject to the food processor license requirements of RCW 69.07.

20.97.310 Poultry
“Poultry” means products derived from the slaughter and processing of broilers, other young chickens, mature chickens, hens, turkeys, capons, geese, ducks, small game fowl such as quail or pheasants, and small game such as rabbits.

20.97.343 Rendering
“Rendering” means the process or business of producing tallow, grease, and high-protein meat and bone meal from animal by-products.

20.97.343.1 Rendering Plant
“Rendering plant” means a plant that processes animal by-product materials for the production of tallow, grease, and high-protein meat and bone meal.

20.97.423.1 Slaughterhouse
“Slaughterhouse” means a facility that slaughters animals and has as its main product fresh meat as whole, half or quarter carcasses or small meat cuts.

20.97.424 Slaughtering
“Slaughtering” means the killing and processing of animals for human consumption.
**Clearances**

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**Title of Document:** Agricultural Parcel Reconfiguration Code amendments as recommended in the Agricultural Strategic Plan (RES2011-023)

**Attachments:**
1) Staff memo to Council
2) Proposed Ordinance

**SEPA review required?** (X) Yes ( ) NO
**SEPA review completed?** (X) Yes ( ) NO

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Proposed amendments to portions of the Official Whatcom County Zoning (Title 20) and Subdivision (Title 21) Ordinances for categorical changes related to the Parcel Reconfiguration task as recommended in the Ag Strategic Plan File. Changes include: Change to Ag Farmstead Parcel creation, a new Ag Parcel Reconfiguration Tool, Ag Siting Criteria, and Procedurally treating Ag Parcel Reconfigurations similar to Boundary Line Adjustments.

**COMMITTEE ACTION:**
3/26/2013: Discussed. Schedule again in committee as time allows

**COUNCIL ACTION:**

**Related County Contract #:**

**Related File Numbers:**
RES2011-023

**Ordinance or Resolution Number:**

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: [www.co.whatcom.wa.us/council](http://www.co.whatcom.wa.us/council).
TO: Honorable Whatcom County Council Members
CC: The Honorable Jack Louws, County Executive
FROM: Samya Lutz, Planner
THROUGH: Mark Personius, Long Range Planning Manager
DATE: March 12, 2013
SUBJECT: Whatcom County Agricultural Strategic Plan Implementation (PLN2012-00007): Agricultural Parcel Reconfiguration

The Planning Commission passed a recommendation to approve proposed code amendments related to Agricultural Parcel Reconfiguration at their meeting on February 28, 2013, after a public hearing on the same day. The draft amendments relate to portions of the Official Whatcom County Zoning (Title 20) and Subdivision (Title 21) Ordinance for categorical changes related to the Parcel Reconfiguration task as recommended in the Ag Strategic Plan File. Changes include: Change to Ag Farmstead Parcel creation, a new Ag Parcel Reconfiguration Tool, Ag Siting Criteria, and Procedurally treating Ag Parcel Reconfigurations similar to Boundary Line Adjustments. These changes are included as Exhibit 1 to both the Planning Commission staff report, and the draft ordinance included with your materials.

BACKGROUND

Resolution 2011-023 was approved by the County Council on July 26, 2011 declaring support for the Whatcom County Agricultural Strategic Plan developed by the county Agricultural Advisory Committee (AAC). An immediate priority articulated in this plan is to review the Rural Study Areas as listed in the 2007 Rural Land Study and make recommendations for possible changes in accordance with RES2009-040 (100,000 acre target), RES2011-023 (the Agricultural Strategic Plan), and RCW 36.70A.170 and .177. The AAC in in the midst of this process now.

Other immediate and short-term priorities articulated in the plan include developing tools that can be incentives for agricultural operators within the priority agricultural areas, including parcel reconfiguration. The Agricultural Parcel Reconfiguration tool is the first to come forward for consideration by the County Council. County staff, members of the AAC, BERK consulting, members of the interested public, and Planning Commissioners have been working for over a year to frame this task, consider the legal and technical context, and engage the broader public.

BERK Consulting prepared a “Supplemental Analysis and Recommendations” document on August 31, 2012 to provide updated information following the publication of the “Situation Assessment: Incentives for Commercial Agriculture: Parcel Reconfiguration,” also prepared by BERK Consulting on May 31, 2012. Both of these documents contain important background information and legal analysis related to the draft ordinance under consideration.

In brief, the process has included:

- Research and Analysis February-May 2012; Situation Assessment: May 2012
Agricultural Parcel Reconfiguration Staff Memo

March 12, 2013

- Project Review Team (made up of voting and ex-officio members of the AAC + staff/consultants)
  - February, April, July, October 2012
- Focus Group: March 2012
- Public Open House: May 2012
- Code Workshop: July 2012
- Planning Commission Work Sessions: July, Aug, Nov 2012, Jan, Feb 2013
- Website and email updates, and materials posted:
  http://www.whatcomcounty.us/pds/plan/lr/projects/agprogram/current-initiatives.jsp

ISSUES

The issues under consideration focus on the following changes to existing code:

1. Farmstead Parcel AG (40) zone – allowed in advance of home being developed.
2. Ag Boundary Line Adjustment allowed in advance of a home being developed.
3. Parcel Reconfiguration – Add as a tool in AG (40) zone.
4. Require siting criteria for lot configuration.
5. Add exemption for divisions for only ag purposes.
6. Allow parcel reconfiguration as a boundary line adjustment process.

The above issues began as the focus, and have remained so throughout the process. Nonetheless, the proposed amendments before you reflect changes made between the time of introduction to the Planning Commission in August, and final recommendation in February. These changes were in response to both public comments and Planning Commissioner comments, and include:

- **Re-organization of the code** pertaining to the various agricultural division/modification types. Because of the degree of red-lining and confusion, staff has prepared a ‘clean’ copy of 20.40 and 20.97 only; please refer to the document entitled “Ag Parcel Reconfiguration WCC 20.40 “Clean” Re-organization,” and focus on pages 2-7 in particular, which reflect a reorganization of 20.40.250-.256 in response to the Commission’s request, including the addition of a table depicting allowed lot sizes, similar to that included with other zoning chapters.

- **Clarified plat and deed restriction** expectations (20.40.250(4)and(5));

- **Added tracking and management language** for ongoing review of the parcel reconfiguration procedure (20.40.254(4)(d));

- **Language related to divisions only for agricultural purposes** to apply to both divisions and boundary line adjustments was changed to include residential development only if property is over 40 acres (20.40.254(6)), and an exempt procedure was added for processing these divisions (21.01.040(2)(l));

- **Increased the number of reconfigured lots that can be together in a single development area** to four, while maintaining a maximum number of six reconfigured lots in a single application (20.40.650(2)(a));

- **Other code text changes**, including
  - clarification of the 1-to-3 acre allowance (20.40.251 table, .253, .254),
  - increasing the required number of ag-related purposes which parcel reconfigurations must achieve from two to four,
o siting criteria changes (.650(2)(c)) to eliminate language “in the corners of the parent properties.”

- **Housekeeping**: subheadings, reference changes, grammatical and other language clarification

Additional comments were received and discussion engaged on other issues that were not in the end incorporated into the proposal before you:

- **Transfer of Development Rights** – Staff recommended changing the Official Whatcom County Zoning & Comprehensive Plan Map to add “and the Agriculture zone” to the text under TDR Sending Areas in lower right area of map. AAC members recommended including a TDR component allowing Ag-to-Ag or Ag-to-Rural transfers. Futurewise Whatcom recommended holding this Parcel Reconfiguration proposal until the existing county TDR program could be modified acceptably. In the end, none of these TDR components ended up being included with the Parcel Reconfiguration proposal. Staff sees value in the TDR approach as a mechanism that has the potential to move development away from our prime, commercial agricultural areas.

**NEXT STEPS**

The following materials are included with this memo:

- Planning Commission Staff Report
- Draft Ordinance
- Exhibit 1 (to both of the above) with the recommended code amendments
- “Clean” version of effected portions of WCC 20.40 (Ag zone) and WCC 20.97 (definitions) WITHOUT tracked changes shown

Please note that additional materials discussed with the Planning Commission may still be helpful references when considering the draft amendments before you, including the Situation Assessment and Supplemental Analysis from BERK mentioned above, and the draft application for Ag Parcel Reconfiguration distributed in November. These are all available through the ‘current initiatives’ link on the Agricultural Program website, located here: http://www.whatcomcounty.us/pds/plan/lr/projects/agprogram/index.jsp

Staff looks forward to discussing these issues with you during the Planning Committee meeting on March 26, after which we hope to better understand your concerns, and also how you would like to proceed with scheduling further work sessions or public hearings.

Feel free to contact me (x51072) or Amy Keenan (x50264) with any questions.
PROPOSED BY: ________
SPONSORED BY: BY: ________
INTRODUCTION DATE: ________

ORDINANCE NO. ________

CODE AMENDMENTS TO ALLOW AGRICULTURAL PARCEL
RECONFIGURATION AND RELATED CHANGES AFFECTING THE
AGRICULTURE ZONE

WHEREAS, the Whatcom County Agricultural Advisory Committee
developed an Agricultural Strategic Plan adopted by County Council Resolution
2011-023; and

WHEREAS, the Agricultural Strategic Plan includes the recommendation to
develop a Parcel Reconfiguration tool in the Agricultural areas, which has now been
developed; and

WHEREAS, the proposed code amendments have been reviewed under the
State Environmental Policy Act (SEPA); and

WHEREAS, In accordance with RCW 36.70A.106 Whatcom County Planning
and Development Services notified the Department of Commerce of the proposed
code amendments; and

WHEREAS, notices of the Whatcom County Planning Commission hearings
on the proposed amendments were published in the Bellingham Herald; and

WHEREAS, the Whatcom County Planning Commission held two public
hearings on the proposed amendments and considered all testimony; and

WHEREAS, the Whatcom County Planning Commission held five work
sessions on the proposed amendments; and

WHEREAS, the Whatcom County Planning Commission forwarded its findings
and reasons for action to the County Council; and

WHEREAS, the Whatcom County Council has reviewed the Planning
Commission recommendation; and

WHEREAS, the Whatcom County Council hereby adopts the following
findings of fact and conclusions:

Page 1
FINDINGS

1. The Whatcom County Agricultural Strategic Plan was developed by the county's Agricultural Advisory Committee made up of farmers and farming industry representatives appointed by the Whatcom County Executive and affirmed by the County Council.

2. The Agricultural Strategic Plan was supported by the County Executive and endorsed by the County Council on July 26, 2011 through Resolution 2011-023.

3. The Agricultural Strategic Plan built upon previous work within the agricultural community including the Rural Land Study (2007; endorsed through Council Resolution 2009-040), and an examination of the existing potential residential development within the agricultural areas of the county as described in four White Papers delivered to the WA State Office of Farmland Preservation in January 2009 and posted on the county's Agricultural website since that time.

4. The examination of existing development potential was initiated in 2008 through a stakeholder and public process conducted by Whatcom Farm Friends (county contract number 200711051), wherein tools were identified with the goals of both retiring and accommodating existing development potential in ways that benefit agriculture. Tools that retire existing development potential were identified as options to reduce the overall development potential within the agricultural areas, assisting the farming industry by reducing the potential for uses that may conflict with agricultural activities. Accommodation tools were identified as potential options that assist the farming industry through various incentives that neither reduce nor add density to the agricultural areas.

5. The Agricultural Strategic Plan contains a number of priority tasks, one of which is "Parcel Reconfiguration tool development" which was intended to allow the reconfiguration of parcels within and across ownership, to place the existing development potential in areas that are the least valuable as farm land; accommodating existing development potential in a manner that better fits with the farming operation.

6. A Project Review Team consisting of County staff, Agricultural Advisory Committee (AAC) representatives, and a Whatcom Farm Friends representative met throughout the process with assistance from BERK Consulting to review objectives and draft documents. Meeting dates were: February 15, April 12, May 10, and July 26, 2012. This team continued to meet without the assistance from BERK Consulting as a subcommittee of the AAC.
7. A Determination of Nonsignificance (DNS) was issued under the State Environmental Policy Act (SEPA) on August 23, 2012.

8. The preliminary project plan was posted on the county website on March 6, 2012, updated periodically, with draft alternative code amendments added on March 27, 2012 and subsequently updated.

9. A Focus Group meeting conducted by BERK Consulting was held on March 5, 2012 with nine experts in Whatcom County agricultural land use, development, and financing to brainstorm how parcel reconfiguration could work to allow rearrangements of parcels (within and across ownership) to place the existing development potential in areas that are the least valuable as farmland, in a manner that benefits the County and the landowner and is consistent with other state and local priorities.

10. A Public Open House concerning the project and draft alternatives was held at Cornwall Church on May 3 at 6:30 PM, with notice posted on the County website and sent to citizen, media and other groups on the County’s e-mail list on April 19, 2012.

11. A document entitled “Situation Assessment: Incentives for Commercial Agriculture: Parcel Reconfiguration” (Situation Assessment) identifying the current conditions, parcel reconfiguration objectives, key issues, recommendations, public process, draft code amendments, and analyzing Growth Management Act and Hearings Board cases and other jurisdictional examples was published on May 31, 2012 by BERK Consulting and posted on the County website on June 8, 2012.

12. The Situation Assessment contains a list of principles used to help guide the parcel reconfiguration work program:
   - Increase the long-term viability of agriculture while recognizing underlying economic realities.
   - Provide more flexibility/incentives for homes, placed with the least impact to agricultural operations.
   - Reduce potential conflicts with neighbors.
   - Ensure parcel reconfiguration tools are “density neutral.”
   - Overarching principles should drive the regulations (e.g. equal to or better than...).
   - Honor and protect property rights and values to help farmers stay in business.

13. Notice of the subject amendment was submitted to the Washington State Department of Commerce on June 7, 2012.
14. The Planning Commission held a work session on July 12, 2012 to discuss the Agricultural Strategic Plan, including background information and all priority tasks. Notice was posted on the County website, and was sent to citizen, media and other groups on the County’s e-mail list on June 27 and on July 5, 2012.

15. A Code Development Technical Workshop open to the public was held on July 16, 2012 to further discuss proposed code amendments, with notice posted on the County website and sent to citizen, media and other groups on the County’s e-mail list on June 27 and on July 10, 2012.

16. The Planning Commission held work sessions on August 9, 2012, November 15, 2012, January 24, 2013, and February 14, 2013, to discuss the Parcel Reconfiguration tool and draft code amendments. Notice of these meetings was posted on the County website, and was sent to citizen, media and other groups on the County’s e-mail list prior to the meetings in accordance with general practices.

17. A Supplemental Analysis and Recommendations document was published on August 31, 2012 to provide updated information following the publication of the “Situation Assessment: Incentives for Commercial Agriculture: Parcel Reconfiguration” prepared by BERK Consulting. The Supplemental Analysis was posted on the County website on September 20, 2012.

18. The Planning Commission held a public hearing on the subject amendment on October 25, 2012. Notice of the Planning Commission hearing was sent to the county email list which includes City representatives from Lynden, Ferndale, Everson, Nooksack and Sumas; citizens; media; and other group representatives on October 4, 2012. Notice of the Planning Commission hearing for the subject amendment was posted on the County website on October 17, 2012. Notice of the Planning Commission hearing for the subject amendment was published in the Bellingham Herald on October 12, 2012.

19. The Planning Commission held a second public hearing on the subject amendment on February 28, 2013. Notice of the Planning Commission hearing was sent to the county email list which includes City representatives from Lynden, Ferndale, Everson, Nooksack and Sumas; citizens; media; and other group representatives on February 20, 2013. Notice of the Planning Commission hearing for the subject amendment was posted on the County website on February 19, 2013. Notice of the Planning Commission hearing for the subject amendment was published in the Bellingham Herald on February 17, 2013.

20. [County Council work sessions and public hearing(s) to be listed here, with related information].
21. In order to approve the zoning amendment, the County must find that it is consistent with the Growth Management Act (GMA). Additionally, the County must find that the zoning amendment is consistent with and implements the Whatcom County Comprehensive Plan.

22. The GMA (RCW 36.70A.020) lists thirteen planning goals to guide the development and adoption of comprehensive plans and development regulations. The proposed amendments reflect a balance of these planning goals; primarily: (2) Reduce sprawl, (6) Property rights, (7) Permits, (8) Natural resource industries, (10) Environment, and (11) Citizen participation and coordination.

23. The GMA (RCW 36.70A.030) contains a definition for “agricultural land” meaning “land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, finfish in upland hatcheries, or livestock, and that has long-term commercial significance for agricultural production.”

24. The GMA guides the adoption of development regulations to assure the conservation of designated agricultural, forest, and mineral lands of long-term commercial significance. Both the GMA and Washington Administrative Code (WAC) offer specific guidance:

- Development regulations must assure the conservation of agricultural lands (RCW 36.70A.060).

- Natural resource uses have preferred and primary status in designated natural resource lands. Counties and cities must determine if and to what extent other uses will be allowed. If other uses are allowed, counties and cities should consider using innovative land management techniques that minimize land use incompatibilities and most effectively maintain current and future natural resource lands (WAC 365-190-040).

- Regulations for the conservation of natural resource lands may not prohibit uses legally existing on any parcel prior to their adoption (RCW 36.70A.060).

- Development regulations must assure that the planned use of lands adjacent to natural resource lands will not interfere with the continued use, in the accustomed manner and in accordance with best management practices, of these designated lands (RCW 36.70A.060).
• Counties and cities are encouraged to use a coordinated program that includes non-regulatory programs and incentives to supplement development regulations to conserve natural resource lands (WAC 365-196-480).

25. The GMA (RCW 36.70A.177) encourages counties to consider use of innovative zoning techniques designed to conserve agricultural lands and encourage the agricultural economy, and requires accessory uses to be limited according to the section.

26. Consultant attorney review concluded that the GMA provides some flexibility for the County to allow landowners to vary from minimum lot sizes in individual cases, as long as:

• The County provides appropriate standards with reasonable limits that protect rural character (such as siting criteria that are consistent with the County’s definition for “rural character”) and that conserve agricultural lands;

• The County does not allow the overall pattern of lot sizes and densities to be materially changed, to the detriment of rural character or agricultural conservation; and

• Where appropriate, the County requires compensating areas to be set aside and permanently dedicated to agricultural or open space uses.

27. Whatcom County Comprehensive Plan Goal 8A is to: Conserve and enhance Whatcom County’s agricultural land base for the continued production of food and fiber. Additionally, the following policies are relevant to the proposed amendments:

Policy 8A-4: Discourage conversion of productive agricultural land to incompatible nonagricultural uses.

Policy 8A-6: Prioritize agricultural activity in land use decisions when land is composed of prime and/or productive agricultural soils and agriculture is the highest value resource use.

Policy 8A-7: Establish flexibility in land use plans and regulations to encourage maintenance of the productive agricultural land base.

Policy 8A-12: The Agricultural Advisory Committee shall advise the Whatcom County Executive and Council on agricultural issues and agricultural land use. Whatcom County shall support the Agricultural Advisory Committee with staff and other resources.
The proposed amendment developed through the recommendations of the County Agricultural Advisory Committee prioritizes agricultural activities while providing land owner flexibility and recognizing existing legal lots.

28. Whatcom County Comprehensive Plan GOAL 8C is to: **Preserve and enhance the cultural heritage that is related to agriculture.** Additionally, the following policies are relevant to the proposed amendments:

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

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

   Policy 8C-3: Involve those who actually are engaged in agricultural activities in the planning process. Utilize groups working effectively with the agricultural community to help preserve and/or create a sustainable economic agricultural base.

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

The proposed amendment responds to public input from farmers, agricultural land owners, and the public by providing opportunities for smaller lot sizes that may be easier to finance for farming purposes while allowing existing residential development potential in a way that is minimally disruptive to the agricultural activities.

29. Whatcom County Comprehensive Plan GOAL 8D is to: **Reduce land use conflicts between Whatcom County’s agriculture and non-agricultural landowners.** Additionally, the following policies are relevant to the proposed amendments:

   Policy 8D-1: Work to reduce conflicts between incompatible agricultural activities by establishing zoning regulations which protect productive agricultural lands of long-term commercial significance from conversion to non-compatible uses. This zoning should recognize the diversity of agricultural landowners and agricultural land uses. This zoning should provide flexible regulations, which encourage all agricultural landowners to maintain the productive agricultural land base while protecting them from conflicting uses.
Policy 8D-6: Support agricultural activity in mixed farm/rural residential areas, with the understanding that certain farm practices may conflict with other neighboring rural land uses.

The proposed amendment provides a flexible alternative to larger-lot residential development in a manner that encourages the conservation of the productive agricultural lands.

**CONCLUSIONS**

1. The subject zoning amendment complies with the Growth Management Act.

2. The subject zoning amendment is consistent and implements the Whatcom County Comprehensive Plan.

**NOW, THEREFORE, BE IT ORDAINED** by the Whatcom County Council that the Whatcom County Code is hereby amended as shown in Exhibit 1.
BE IT FURTHER ORDAINED that if any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional; such decision shall not affect the validity of the remaining portions of this ordinance. The Council hereby declares that it would have passed this code and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases has been declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

ADOPTED this ___ day of ________, 20___.

ATTEST: 

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council  Kathy Kershner, Council Chair

APPROVED AS TO FORM: 

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

Civil Deputy Prosecutor  Jack Louws, County Executive

(  ) Approved    (  ) Denied

Date Signed:____________________
EXHIBIT 1

PROPOSED CODE AMENDMENTS: PARCEL RECONFIGURATION

February 28, 2013

Chapter 20.40 AGRICULTURE (AG) DISTRICT

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20.40.250 Division or Modification of Parcels ....................... 3
20.40.251 Minimum Lot Size ...................................... 4
20.40.252 Minimum lot width and depth .......................... 5
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Prepared by BERK & Whatcom County PDS staff February 28, 2013
Chapter 20.40
AGRICULTURE (AG) DISTRICT

Sections:
20.40.010 Purpose.
20.40.050 Permitted uses.
20.40.100 Accessory uses.
20.40.130 Administrative approval uses.
20.40.150 Conditional uses.
20.40.200 Prohibited uses.
20.40.250 Division or modification of parcels
20.40.350 Building setbacks.
20.40.450 Lot coverage.
20.40.650 New or modified parcel siting criteria.
20.40.651 Landscaping.
20.40.652 Drainage.
20.40.662 Use of natural resources.
20.40.010 Purpose.

The primary purposes of this district are to implement the agricultural designation of the Comprehensive Plan, established pursuant to RCW 36.70A.170, to preserve, enhance and support the production of food and fiber in Whatcom County, to maintain a sufficiently large agricultural land base to ensure a viable agriculture industry and to maintain the economic feasibility of supporting services. Whatcom County supports agricultural activities as the highest priority use in the Agriculture District, with all other uses being subordinate to agricultural activities. Whatcom County seeks to minimize conflict with surrounding zoning districts, in conjunction with Chapter 14.02 WCC, Right to Farm. In order to limit the further fragmentation of the commercial agricultural land base, the Agriculture District includes smaller areas of land with poorer quality soils or nonagricultural uses, which do not meet the definition of agriculture lands of long-term commercial significance.

A secondary purpose of this district is to serve as a holding district when located within the urban growth area Comprehensive Plan designation to allow agricultural uses in the near term while protecting the area from suburban sprawl and preserving the potential for future urban development consistent with the protection of the resource land. (Ord. 2009-071 § 2 (Exh. B), 2009; Ord. 2005-079 § 1, 2005; Ord. 2001-020 § 1 (Exh. 1 § 1), 2001).

20.40.250 Division or Modification of Parcels.

It is the intent of this section to allow divisions which benefit the long-term viability of agriculture. This section describes the requirements for division or modification of parcels within the agricultural district that

Prepared by BERK & Whatcom County PDS staff
February 28, 2013
either are consistent with the minimum lot size, or would result in substandard parcels or make existing
substandard parcels further substandard.

Requests for land division, boundary line adjustment, or agricultural parcel reconfiguration in the Agriculture
District shall be made on forms provided by the department and will be reviewed administratively. All
divisions must comply with the following provisions:

(1) Agricultural Divisions. All divisions of land in the Agriculture District shall proceed in accordance with the
local and state subdivision laws.

(2) Allowable Density. No division, boundary line adjustment, or agricultural parcel reconfiguration shall
result in an increase in allowable density.

(3) Additional Acreage. Additional acreage gained through a boundary line adjustment or agricultural parcel
reconfiguration shall not be considered in the total acreage calculations for determining density.

(4) Plat Restrictions. The following plat restriction is required, prior to recording, on the nonresidential lot of
all divisions of land provided for in WCC 20.40.254(2):

No further division or residential structure shall be allowed on this parcel unless and until
changes in the zoning of this property occur consistent with State and local laws which
would result in additional development density, in which case this restriction shall be null
and void, and density and uses of the new zone shall apply to the property upon review by
the Whatcom County zoning administrator.

(5) Deed Restrictions. Deed restrictions are required for all boundary line adjustments or agricultural parcel
reconfigurations allowed under WCC 20.40.254(3) and (4),

(a) The following language must be recorded separately and placed by reference of auditors file
number on the deed, and placed on the tract map of the nonresidential portion of the adjusted
parent parcels prior to recording:

The development density of the original parcel (parent parcel) remains with legal
description , the (acre) appended through boundary line
adjustment (or agricultural parcel reconfiguration) to legal description (receiving parcel) shall not be included in calculations to determine total development
density for the receiving parcel.

(b) The following deed restriction language must be recorded separately and placed by reference of
auditors file number on the deed, and is required when there is no additional means to further
subdivide the property due to the parcel sizes and density standards of this zone:

No further division or residential structure shall be allowed on this parcel unless and until
changes in the zoning of this property occur consistent with State and local laws which
would result in additional development density, in which case this restriction shall be null
and void, and density and uses of the new zone shall apply to the property upon review by
the Whatcom County zoning administrator.

20.40.253 Minimum Lot Size.

The minimum lot size in the Agriculture District is 40 acres, except as provided for in WCC 20.40.253 and
20.40.254. The creation of a lot less than the minimum size is permitted only when the subject application
meets the standards contained in WCC 20.40.253, 254, and 650, as applicable.

Prepared by BERK & Whatcom County PDS staff

February 28, 2013
<table>
<thead>
<tr>
<th>Parcel</th>
<th>Minimum Lot Size</th>
<th>Minimum Lot Size Exceptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conventional Parcel</td>
<td>40 acres</td>
<td>Reconfiguring existing nonconforming parcels</td>
</tr>
<tr>
<td><strong>Farmstead Parcels Created through Agricultural Short Subdivision or Agricultural Boundary Line Adjustment</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Farmstead Parcel – Parent Parcel with Existing Farmstead with public water</td>
<td>1 acre</td>
<td>Up to 2 acres pursuant to WCC 20.40.253 (1), (2), &amp; (4)</td>
</tr>
<tr>
<td>Farmstead Parcel – Parent Parcel without Existing Farmstead with public water</td>
<td>2 acres</td>
<td>Up to 3 acres pursuant to WCC 20.40.253 (1), (2), &amp; (4)</td>
</tr>
<tr>
<td>Farmstead Parcel – Parent Parcel without Existing Farmstead with public water</td>
<td>1 acre</td>
<td>Up to 2 acres pursuant to WCC 20.40.253 (1) &amp; (2)</td>
</tr>
<tr>
<td>Farmstead Parcel – Parent Parcel without Existing Farmstead without public water</td>
<td>2 acres</td>
<td>Up to 3 acres pursuant to WCC 20.40.253 (1), (2), &amp; (3)</td>
</tr>
<tr>
<td><strong>Parcels Created Through Agricultural Parcel Reconfiguration</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reconfigured Parcel - reconfiguration with public water</td>
<td>1 acre</td>
<td>N/A</td>
</tr>
<tr>
<td>Reconfigured Parcel - reconfiguration without public water</td>
<td>1 acre</td>
<td>Up to 2 acres pursuant to WCC 20.40.253 (1), (2), &amp; (3)</td>
</tr>
<tr>
<td><strong>Parcels Created for Agricultural Purposes Only</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Created Parcel with deed restriction for non-residential buildings</td>
<td>10 acres</td>
<td>N/A</td>
</tr>
</tbody>
</table>

**20.40.252 Minimum lot width and depth.**

1. For parcels created consistent with the minimum lot size: The minimum length to width ratio is 1/5. The terms "length" and "width" refer to the average length and average width of the parcel.

2. For lots created or rearranged pursuant to WCC 20.40.254, the following lot width and depth shall apply:
<table>
<thead>
<tr>
<th>Minimum Width at Street Line</th>
<th>Minimum Width at Build Line</th>
<th>Minimum Mean Depth</th>
</tr>
</thead>
<tbody>
<tr>
<td>70' [A]</td>
<td>80'</td>
<td>100'</td>
</tr>
</tbody>
</table>

[A] Applies only to land divisions or parcel reconfigurations where the parcel(s) does not contain a farmstead homestead at the time of the application.

20.40.253 Farmstead or Reconfigured Parcel Minimum Lot Size Exceptions

The base maximum for the farmstead parcel shall be consistent with the minimum lot size in 20.40.251, except as follows:

(1) A greater area is determined necessary by the health officer pursuant to Chapter 24.05 On-Site Sewage System Regulations;

(2) A greater area is determined necessary by the responsible official to accommodate a driveway or other access necessary for the farmstead parcel;

(3) For farmstead parcels without public water: Unless substantial evidence is provided by the responsible official indicating the location is not feasible, wells and wellhead protection zones shall also be located within the farmstead parcel. Wells located outside of the farmstead parcel area shall be sited to minimize potential impacts on agricultural activities.

(4) For farmstead parcels with existing farmstead homesteads: There is an existing agricultural structure(s) within the farmstead parcel and any of the following criteria are met:

(a) The separation between the agricultural structure(s) and the primary residential structure is less than 150 feet; or

(b) Current use of the agricultural structure(s) is not related to an agricultural activity; or

(c) There is a low potential for future use of the agricultural structure(s) to be associated with an agricultural activity due to physical condition or compatibility with agricultural practices; or

(d) Water is not available for use at the agricultural structure(s).

20.40.254 Separation of the Farmstead Parcel Criteria:

(1) The criteria for approval for the farmstead parcel and remainder parcel created through Agricultural Boundary Line Adjustment, Agricultural Short Subdivision and Agricultural Parcel Reconfiguration 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 enclose 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) A remainder parcel shall be created equal to or greater than 10 nominal acres; and
(g) 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, boundary line adjustment, or agricultural parcel reconfiguration for the remainder parcel prior to final approval; and

(f) 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

(g) A right to farm disclosure statement as provided for in WCC 14.02.040(8) 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

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

(i) The overall submittal shall comply with WCC 20.40.250 et seq.

(2) Agricultural Short Subdivisions. Agricultural Short subdivisions for the purpose of reducing the acreage below the minimum lot size as provided by WCC 20.40.251 for a farmstead homesite shall comply with the following provisions:

(a) The minimum parcel size is the area necessary to accommodate a house site which meets the applicable dimensional requirements of all applicable code and provides a remainder (appended) parcel equal to or greater than 10 nominal acres; and

(b) The short subdivision application shall meet the size and performance standards of WCC 20.40.650.

(3) Boundary Line Adjustments. Boundary line adjustments for the purpose of reducing the acreage below the minimum lot size as provided by WCC 20.40.251 of an existing or proposed farmstead parcel if such boundary line adjustment complies with the following provisions:

(a) Boundary line adjustments shall not make a lot substandard or further substandard, except as provided for in WCC 20.40.251;

(b) The minimum parcel size is the area necessary to accommodate a house site which meets the applicable dimensional requirements of all applicable codes and provides a remainder (appended) parcel equal to or greater than 10 nominal acres; and

(c) The farmstead parcel and boundary line adjustment application shall meet the size and performance standards of WCC 20.40.250 and 251, and the siting criteria of WCC 20.40.650.

(4) Agricultural Parcel Reconfiguration. Parcels are reconfigured and finalized according to the agricultural parcel reconfiguration process established in Chapter 21.03. Exempt Land Divisions, Boundary Line Adjustments, and Agricultural Parcel Reconfigurations, and when meeting the following performance standards:

(a) Existing parcels to be reconfigured are:

(i) Smaller than the minimum lot size established for new lots in the Agriculture district. Parcels which meet the minimum lot size may be adjusted as a part of this process, provided the reconfiguration meets the provisions of (4)(b) below;
(ii) Determined to be legally created and buildable pursuant to WCC Title 21.01.180.

(b) Proposed parcel(s) results in the following:

(i) No additional parcels; and

(ii) A remainder parcel shall be created equal to or greater than 10 nominal acres, and

(iii) The siting criteria of WCC 20.40.650 are met and development standards of WCC 20.40.257 et seq. are met; and

(iv) The reconfiguration shall result in achieving four (4) or more of the identified agricultural-related purposes as follows:

(A) Expand the amount of commercially viable resource land under contiguous single ownership; and/or

(B) Protect and buffer designated resource lands; and/or

(C) Reduce impervious surfaces, such as by reducing the amount of road and utility construction required to serve reconfigured lots, or by reducing the amount of impervious area for nonagricultural uses that could otherwise occur without parcel reconfiguration; and/or

(D) Reduce the total number of lots of record through voluntary consolidation; and/or

(E) Produce a farm management plan approved through the Whatcom Conservation District or WA Department of Agriculture that demonstrates increased viability of the agricultural operation through the agricultural parcel reconfiguration; and/or

(F) Enable improved floodplain management in cooperation with Whatcom County Public Works; and

(viii) Reconfigured lots shall not be further adjusted by boundary line adjustment without approval under this section.

(c) The responsible official may impose conditions, consistent with Whatcom County Code, on the agricultural parcel reconfiguration to further the purposes of this section.

(d) Parcel reconfigurations will be tracked by County Planning and Development Services so the procedure can be adaptively managed by review of all projects passed per this code in year 2017.

(5) Public Facility. The division is for the purpose of public facilities for health and safety use or expansion of such use; provided, that:

(a) The division or boundary line adjustment will not adversely affect the surrounding agricultural activities; and

(b) The applicant has demonstrated to the administrator's satisfaction that the sting of the proposed use cannot be located in an adjacent zoning district or alternative site, if the area is intensively farmed.

(6) Division or Boundary Line Adjustment for Agricultural Purposes Only. Lots smaller than the minimum lot size of WCC 20.40.251 may be created through land division or re-arranged through a boundary line adjustment provided the following:

(a) The parent parcel does not contain an existing residence, or said existing residence will remain on a parcel larger than 40 acres in size; and

Deleted: pursuant to WCC 20.40.251

Deleted: .253

Deleted: (d) The appended parcel shall have no development rights and a condition containing the language as provided in WCC 20.40.251(4) shall be included on the deed for the appended parcel prior to final approval; and

(e) 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 farmland home site parcel before they are offered on the open market, and

(f) A right to farm disclosure statement as provided for in WCC 14.02.050(b) will be signed by the farmland home site owner and subsequent purchasers of the farmland home site parcel, and recorded as per WCC 14.02.040(4)(1) and 14.02.050; and

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

(h) The overall subdivision shall comply with WCC 20.40.250 et seq. §

(i) The division is to allow for the realization of a security interest entered into for the purpose of financing a new house; provided, that the divided parcel shall not be sold separately from the farm except at the event of foreclosure or forfeiture, pursuant to the criteria of subsection (1) of this section. §

(4)
(b) The parcel created is greater than 10 acres or is appended to another parcel; and

c) There is a properly executed deed restriction which runs with the land on lots which have been
created through the division or modified by the boundary line adjustment, except those lots at
or over 40 acres in size that maintain an associated development density; such deed restriction
shall be substantially similar to that listed under 20.40.250(5), approved by the zoning
administrator and recorded with the County Auditor specifying:

(i) All land divided or parcels adjusted are to be used exclusively for agricultural or flood
management purposes and specifically not for a dwelling(s), and

(ii) All land divided or parcels adjusted shall have no residential density, and

(iii) For land divisions, the acreage of the newly created parcels shall not be included in
calculations to determine total development density in the future, and

(iv) For boundary line adjustments, the acreage of the newly created parcel and appended
portion shall not be included in calculations to determine total development density in the
future.

20.40.255 Consolidation of Adjacent Tracts.

Consolidation of adjacent tracts in the same ownership shall be required in accordance with 20.33.070 in
approval of any subdivision, short subdivision, agricultural parcel reconfiguration, or boundary line
adjustment in the Agricultural District. The County may waive the permit fee for a boundary line adjustment
or agricultural parcel reconfiguration where adjacent lots of record are not in the same ownership and are
consolidated voluntarily for purposes of the agricultural parcel reconfiguration, or boundary line adjustment.

20.40.256 Establishing Intent.

The burden of establishing intent in and legal proceeding relating to a transaction accomplished or proposed
under the authority of this section shall be upon the land owner or purchaser.

20.40.350 Building setbacks.

Building setbacks shall be administered pursuant to WCC 20.80.200 (Setback Requirements). Building
setbacks for parcels of less than five nominal acres shall be administered pursuant to WCC 20.80.250.

20.40.450 Lot coverage.

No structure or combination of structures, including accessory buildings, shall occupy or cover more than 25
percent of the total area of the subject parcel. Exceptions to the maximum lot coverage may be allowed
when any of the following can be demonstrated:

(1) Proposed structures, in excess of the allowed maximum lot coverage, are located on lesser quality soils.

(2) Proposed structures in excess of the allowed maximum lot coverage support additional agricultural
production on parcels other than the subject parcel.

(3) Expansion of facilities that were in operation prior to the adoption of the ordinance codified in this section
if it can be demonstrated that substantial on-site investment has been made and location of additional
structures off-site would cause an economic hardship to the farm operation.
20.40.650 New or Modified Parcel Siting Criteria

The location of vacant farmstead parcels or parcels arranged through agricultural parcel reconfiguration (which may or may not be vacant) shall be consistent with the following siting criteria and standards:

(1) Minimum Lot Size. Parcels shall be consistent with WCC 20.40.251.

(2) Parcel Design. Parcels shall be located and arranged to provide the maximum protection of agricultural land located both on and off-site. Parcel design and development shall be as follows:

(a) The residential parcels shall be configured so that property lines are immediately adjacent and physically contiguous to each other. A maximum of two development areas containing no more than four (4) lots may be allowed. The two development areas shall contain no more than a total of six lots, and shall be separated by a minimum of 600 feet to minimize the visibility of the future development and reinforce the purposes of the zone, provided that reductions in the separation standard by up to 10% are allowed if an applicant can demonstrate that the future development visibility from the public right of way or from neighboring properties is minimized and the purposes of the parcel reconfiguration in Section 254(4)(b)(iv) are met; and

(b) Residential parcels shall be located as close as possible to existing public roads, or if none abut the property then to existing access roads. New road or driveway development shall be avoided to the maximum extent feasible; and

(c) Except for parcels that recognize existing farmsteads, residential parcels shall be located to the extent feasible to maximize the remainder lot configuration and farmable area; and

(d) Except for reconfigured parcels that recognize existing farmsteads, each reconfigured parcel shall be limited to one single family residence and residential accessory structures; and

(e) Residential building sites shall maintain sufficient separation from on-site and off-site agricultural resources and exterior property lines. The setback, lot coverage, and height standards for reconfigured lots shall be as established in WCC 20.40.350 to 450; and

(f) Applicants shall verify that reconfigured parcels or farmstead parcels do not prohibit access to a point of withdrawal for any irrigation water rights certificates, claims, permits, or applications on the affected parcels; and

(g) All development shall be consistent with WCC Chapter 16.16; and

(h) The farmstead parcel or reconfigured parcels avoid prime soils to the extent feasible. Where the site is predominantly in prime soils and such cannot be avoided, the applicant shall demonstrate that:

(i) the parcels are sized to be as small as feasible pursuant to WCC 20.40.251; and

(ii) located to maximize the agricultural use of the remainder lot; and

(iii) achieve the most suitable locations for parcels in terms of minimizing roads, allowing for water availability, and septic suitability.

(3) Substitute Parcel Design Standards. Applicants proposing a farmstead parcel or agricultural parcel reconfiguration may propose a substitute performance standard in place of a listed standard in .650 (New or Modified Parcel Siting Criteria) provided that the applicant submits a written justification demonstrating the substitute standard better or equally meets the purposes of the zone in WCC 20.40.010 and the agricultural.
related purposes described in WCC 20.40.254(4)(b)(iv); except under no condition shall more than the maximum of six (6) residential parcels with no more than four (4) lots in one development area be allowed. Such substitution shall be considered at the Administrator's discretion.
CHAPTER 20.80
SUPPLEMENTARY REQUIREMENTS

Sections:
20.80.210 Minimum setbacks.
20.80.230 Measurement of setbacks.
20.80.250 Special setbacks provisions by district.
20.80.252 Rural District.
20.80.255 Agriculture District.
20.80.258 All districts.

20.80.210 Minimum setbacks.

(5) Setbacks. For the purposes of this chapter, the road classification used to determine setback requirements shall be as set forth in this section. In the event a particular road is not listed in this section, the department of public works shall determine the classification, which classification shall be based on the Whatcom County Development Standards or such other local, state or federal roadway standards as the department of public works deems appropriate.

(a) Setback Requirements of All Districts.

(i) No manure lagoon or other open pit storage shall be located closer than 150 feet from any property line, or in a manner which creates any likelihood of ground water pollution or other health hazard.

(ii) All manure storage shall be protected from a 25-year flood and shall be located 50 feet from irrigation ditches and waterways, 50 feet from the ordinary high water line of any lake or waterway; provided, that best management practices as determined by the Whatcom County Conservation District are in place. If the best management practices are not in place, 300 feet shall be substituted for 50 feet.

(iii) In all districts where a single-family residence is a primary permitted use, a building permit may be issued for the construction of a replacement dwelling on the same lot; provided, that the owner agrees by filing a statement with the building official that the old dwelling will be demolished, removed or converted to another permitted use upon completion of the new dwelling.

(iv) A 10-foot setback from the international border between Canada and the United States shall be maintained as an open space vista. The 10-foot setback area may be used for landscaping, agriculture, and natural vegetation. Structures may only be built within the 10-foot setback area after approval from the International Boundary Commission.
(b) Setbacks Table.

<table>
<thead>
<tr>
<th>Agricultural (AG)</th>
<th>Road Type</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial, Industrial, I-5, State Hwys, Principal &amp; Minor Arterials</td>
<td>Collector Arterials or Major Collectors</td>
<td>Minor Collectors</td>
</tr>
<tr>
<td>50'</td>
<td>58'</td>
<td>50'</td>
</tr>
</tbody>
</table>

1. The 50-foot front yard setback requirement for new buildings or additions may be waived if the zoning administrator finds the new building or addition is located along the same building line(s) of existing structures and will result in no additional encroachment and the public interest, safety and health are protected; provided, that for a new building the applicant shall also demonstrate that the proposed location is necessary for the economic viability and the continued operation of the agricultural use.

2. The minimum separation between new residences not located on the same property and farm uses such as barns, pens, milking sheds, or areas used to contain, house or feed animals or store manure or feed shall be 300 feet. New farm uses such as barns, pens, milking sheds, or areas used to contain, house or feed animals or store manure or feed shall be situated at least 150 feet from existing residences not located on the same property. Expansion of existing facilities within the 150-foot buffer, providing such expansion is not closer to a neighbor's residence, and pastures are excluded from this section's requirements.

3. Parcels of less than five nominal acres shall have the following minimum setbacks:

   Front yards:
   - Primary arterials and secondary arterials: 45 feet.
   - Collector arterials: 35 feet.
   - Neighborhood collectors, local access streets: 25 feet.
   - Minor access streets: 20 feet.

   Minimum front yard requirements can be reduced by the zoning administrator for agricultural parcel reconfigurations, boundary line adjustments, or farmside parcels established through WCC 20.40.253 – 256 if the proposed placement of the structures will result in a better fit with critical area or prime soils and goes through the approval process in WCC 21.03. In no case shall front yard depth be less than 20 feet.

   Side yards: minimum side yard setbacks shall be five feet. For agricultural parcel reconfigurations, boundary line
adjustments, or farmstead parcels established through WCC 20.40.253 - 254, the exterior side yard and exterior rear yard requirements of habitable structures shall be 30 feet.

Rear yards: minimum rear yard setbacks shall be five feet.

4. A 10-foot setback from the international border between Canada and the United States shall be maintained as an open space vista. The 10-foot setback area may be used for landscaping, agriculture, and natural vegetation. Structures may only be built within the 10-foot setback area after approval from the International Boundary Commission.

***

20.80.255 Agriculture District.

(1) The 50-foot front yard setback requirement for new buildings or additions may be waived if the zoning administrator finds the new building or addition is located along the same building line(s) of existing structures and will result in no additional encroachment, the public interest, safety and health are protected; provided, that for a new building the applicant shall also demonstrate that the proposed location is necessary for the economic viability and the continued operation of the agricultural use.

(2) The minimum separation between new residences not located on the same property and farm uses such as barns, pens, milking sheds, or areas used to contain, house or feed animals or store manure or feed, shall be 300 feet. New farm uses such as barns, pens, milking sheds, or areas used to contain, house or feed animals or store manure or feed, shall be situated at least 150 feet from existing residences not located on the same property. Expansion of existing facilities within the 150-foot buffer, providing such expansion is not closer to a neighbor's residence, and pastures are excluded from this section’s requirements.

(3) Parcels of less than five nominal acres shall have the following minimum setbacks:

Front Yards:
- Primary arterial and secondary arterial: 45 feet.
- Collector arterial: 35 feet.
- Neighborhood collectors, local access streets: 25 feet.
- Minor access streets: 20 feet.

Minimum front yard requirements can be reduced by the zoning administrator for agricultural parcel reconfigurations, boundary line adjustments, or farmstead parcels established through WCC 20.40.253 - 254 if the applicant demonstrates better placement of the structures in relation to critical areas or prime soils and goes through the approval process in WCC 21.03, but in no case shall be less than 20 feet.

Side Yards: Minimum side yard setbacks shall be five feet. For agricultural parcel reconfigurations, boundary line adjustments, or farmstead parcels established through WCC 20.40.253 - 254, the exterior side yard and exterior rear yard requirements of habitable structures shall be 30 feet.

Rear Yards: Minimum rear yard setbacks shall be five feet. (Ord. 2001-020 § 1 [Exh. 1 § 2], 2001; Ord. 99-080, 1999)

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CHAPTER 20.83
NONCONFORMING USES AND PARCELS

20.83.110 Reduction of area.

The administrator shall not cause or increase the nonconformity of lots that are substantial as to lot area and/or lot width requirements through boundary line adjustments; provided, however, that the administrator or hearing examiner may approve boundary line adjustments required to satisfy an unidentified or disputed property line or to identify the same in accordance with RCW 58.04.007. In addition, boundary line adjustments or agricultural parcel reconfigurations in the Agricultural zone in conformance with WCC 20.40.253-254 shall be allowed. (Ord. 2009-031 § 1 (Exh. 1), 2009).
CHAPTER 21.01
GENERAL PROVISIONS

Sections:
21.01.010 Title.
21.01.020 Purpose.
21.01.030 Authority.
21.01.040 Applicability and exemptions.
21.01.050 Interpretation, conflict and severability.
21.01.060 Enforcement and penalties.
21.01.070 Fees.
21.01.080 Administrative responsibilities.
21.01.090 Pre-application meeting.
21.01.100 Applications required.
21.01.105 Consolidated application process.
21.01.110 Complete application.
21.01.120 Time frames.
21.01.130 Underground utilities.
21.01.140 Regulatory authority for development standards.
21.01.150 Repealed.
21.01.160 City urban growth areas.
21.01.170 Hearing examiner consultation with technical advisory committee.

21.01.010 Title.

This title shall be known and may be cited as the Whatcom County land division regulations. (Ord. 2009-007 § 1; Ord. 2000-056 § 1).

21.01.020 Purpose.

The purpose of this title is:

(1) To promote the public health, safety, and general welfare, and to protect the natural resources and the environment.

(2) To provide for proper application of Chapter 58.17 RCW.

(3) To facilitate efficient and cost-effective land division and to ensure orderly growth and development consistent with the Whatcom County Comprehensive Plan and the Whatcom County Code.

(4) To establish an orderly transition from existing land uses to urban development patterns in designated urban growth areas. (Ord. 2009-007 § 1; Ord. 2000-056 § 1).

21.01.030 Authority.

This title is authorized pursuant to the authority delegated to Whatcom County under Chapter 58.17 RCW, Plats – Subdivisions – Dedication. (Ord. 2009-007 § 1; Ord. 2000-056 § 1).

21.01.040 Applicability and exemptions.

(1) This title shall apply to property boundary actions as defined in this title.

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(2) The subdivision and short subdivision provisions of this title shall not apply to:

(f) A division made for the purpose of alteration by adjusting boundary lines, between platted or unplatted lots or both, which does not create any additional lot, tract, parcel, site, or division nor create any lot, tract, parcel, site, or division which contains insufficient area and dimension to meet minimum requirements for width and area for a building site in accordance with the provisions of this title;

(i) Divisions of land into parcels of less than forty acres but greater than ten acres within the area zoned and designated as Agriculture in the Comprehensive Plan for Whatcom County proceeding in accordance with 20.40.254(6).

21.01.100 Applications required.

(1) The applicant is encouraged to seek assistance from the subdivision administrator as to which approvals are required for a particular proposal. One or more of the following applications may be required for a particular proposal:

(a) Exempt land division;

(b) Boundary line (lot line) adjustment or agricultural parcel reconfiguration;

(c) Short subdivision;

(d) Preliminary long subdivision;

(e) Final long subdivision;

(f) Subdivision vacations and alterations;

(g) Preliminary binding site plan;

(h) General binding site plan;

(i) Specific binding site plan;

(j) Agricultural short plat. (Ord. 2009-007 § 1; Ord. 2000-056 § 1).
CHAPTER 21.03
EXEMPT LAND DIVISIONS, BOUNDARY LINE ADJUSTMENTS, AND AGRICULTURAL PARCEL RECONFIGURATIONS

Sections:
21.03.010 Purpose.
21.03.020 Repealed.
21.03.030 Pre-approval.
21.03.040 Certificate of exemption.
21.03.045 Required disclosures.
21.03.050 Access on state highways.
21.03.060 Boundary line adjustments and Agricultural Parcel Reconfigurations.
21.03.070 Inactive applications.
21.03.080 Requirements for a fully completed exempt land division application.
21.03.085 Requirements for a fully completed boundary line adjustment application.
21.03.090 Repealed.

21.03.010 Purpose.

The purpose of this chapter is to establish or reference the procedure and requirements for the application, review and approval of exempt land divisions, pursuant to WCC 21.01.040, boundary line adjustments, and agricultural parcel reconfigurations. The procedure is intended to provide orderly and expeditious processing of such applications. (Ord. 2009-007 § 1; Ord. 2000-056 § 1).

21.03.020 Exemptions.


21.03.030 Pre-approval.

Applicants may request that their proposed exempt land division be reviewed by the subdivision administrator and pre-approved using forms supplied by the planning and development services department. (Ord. 2009-007 § 1; Ord. 2000-056 § 1).

21.03.040 Certificate of exemption.

1) A certificate of exempt land division shall be obtained from the planning and development services department for exempt land divisions under WCC 21.01.040(2)(b) and (k). A certificate of exempt land division shall consist of a suitably inscribed stamp on the instrument conveying land title and shall be certified prior to the recording of the instrument with the county auditor. County review and/or a county certificate of exemption stamp shall not be required for WCC 21.01.040(2)(a) and (c) through (j).

2) A certificate of exempt land division shall be approved, approved with conditions, or denied as follows:

(a) Applications shall include information required by WCC 21.03.085.

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(b) The exempt land division results in a lot(s) that qualifies as a valid land use pursuant to the Whatcom County Code, including but not limited to lot area, lot width, building setbacks, critical areas protection or shorelines protection.

(c) The exempt land division will not detrimentally affect access, access design, sight distance, grade, road geometry or other public safety and welfare concerns.

(3) An exempt land division is not considered approved until said instrument has been duly stamped as exempt and is filed for record concurrently with all applicable disclosures of WCC 21.03.045 within 12 months of pre-approval. Failure to record within 12 months of pre-approval means the exempt land division application is expired and must be resubmitted for review and approval. The time periods of this section do not include the time during which the exempt land division was not actually pursued due to the pendency of administrative appeals or legal actions or due to the need to obtain any other government permits and approvals for the development that authorize the development to proceed, including all reasonably related administrative or legal actions on any such permits or approvals. (Ord. 2009-007 § 1; Ord. 2004-031 § 1; Ord. 2002-017 § 1; Ord. 2000-056 § 1).

21.03.045 Required disclosures.

The following disclosures, if applicable, shall be recorded in the county auditor’s office and shall be filed concurrently with all conveyances of property subject to this title:

(1) Right to farm, right to practice forestry, or mineral resource disclosures.

(2) Boundary discrepancies.

(3) Protective covenants, conditions and restrictions.

(4) Latecomers’ agreements.

(5) Significant pipeline in vicinity disclosure when the subject property is within 660 feet of a pipeline shown on Map 12, Chapter 5 of the Whatcom County Comprehensive Plan. (Ord. 2009-007 § 1; Ord. 2004-031 § 1; Ord. 2002-017 § 1).

21.03.050 Access on state highways.

For parcels that will access onto a state highway, the applicant shall provide evidence of an approved access from the State Department of Transportation prior to approval of the exempt land division. (Ord. 2009-007 § 1; Ord. 2000-056 § 1).

21.03.060 Boundary line adjustments and Agricultural Parcel Reconfigurations.

The purpose of this section is to provide procedures for the review and approval of adjustments or alterations to boundary lines of existing lots of record which does not create any additional lot, tract, parcel, site or division nor create any lot, tract, parcel, site or division which contains insufficient area and dimension to meet minimum requirements for width and area for a building site.

(1) Procedures. Boundary line adjustments and agricultural parcel reconfigurations shall be approved, approved with conditions, or denied as follows:

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(a) Applications shall include information required by WCC 21.03.085.

(b) Any adjustment of boundary lines must be approved by the subdivision administrator prior to the transfer of property ownership between adjacent lots.

(c) The subdivision administrator shall make a preliminary decision on boundary line or agricultural parcel reconfiguration applications within 45 days following submittal of a complete application or revision, unless the applicant consents to an extension of such time period.

(d) A title insurance certificate updated not more than 60 days prior to application, which includes all parcels within the adjustment, must be submitted to the subdivision administrator with boundary line adjustment or agricultural parcel reconfiguration applications.

(e) All persons having an ownership interest within the boundary line adjustment or agricultural parcel reconfiguration shall sign the final recording document in the presence of a notary public.

(2) Decision Criteria. In reviewing a proposed boundary line adjustment or agricultural parcel reconfiguration, the subdivision administrator or hearing examiner shall use the following criteria for approval:

(a) The boundary line adjustment shall not result in the creation of an additional lot.

(b) With the exception of those boundary line adjustments or lots within agricultural parcel reconfigurations that recognize an existing farmstead home site located within the agricultural zone, the boundary line adjustment or agricultural parcel reconfiguration shall result in lots which contain sufficient area and dimensions to meet minimum requirements for width and area for a building site pursuant to this title.

(c) The boundary line adjustment or agricultural parcel reconfiguration shall be consistent with any restrictions, dedications or conditions regarding the overall area in a plat or short plat devoted to open space, environmental mitigation or conservation.

(d) The boundary line adjustment or agricultural parcel reconfiguration shall be consistent with any restrictions or conditions of approval for a recorded plat, short plat, zoning permit, or development permit.

(e) The boundary line adjustment or agricultural parcel reconfiguration shall not cause boundary lines to cross on-site sewage disposal systems or their reserve areas, prevent suitable area for on-site sewage disposal systems, or prevent adequate access to water supplies unless suitable mitigation including, but not limited to, the granting of utility easements is provided to the satisfaction of Whatcom County; provided, however, in the agricultural zone only those lots with existing on-site sewage disposal systems or potable water supplies are subject to this provision.

(f) The boundary line adjustment or agricultural parcel reconfiguration will not create a new access which is unsafe or detrimental to the existing road system because of sight distance, grade, road

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geometry or other safety concerns, as specified in adopted Whatcom County road development standards.

(p) The boundary line adjustment or agricultural parcel reconfiguration on lots without an existing farmstead home site shall demonstrate adequate septic and potable water suitability. Applicants shall demonstrate adequate potable water availability per WCC 24.11. Applicants shall demonstrate septic suitability approval pursuant to WCC 24.05.

(3) Final Approval and Recording Required. To finalize an approved boundary line adjustment or agricultural parcel reconfiguration, the applicant must submit to the subdivision administrator within one year of preliminary approval final review documents meeting the requirements of approval.

(a) All persons having an ownership interest within the boundary line adjustment or agricultural parcel reconfiguration shall sign the final recording document in the presence of a notary public.

(b) Certified legal descriptions of the lots after the boundary line adjustment or agricultural parcel reconfiguration, together with conveyance document(s) and language clearly binding the property which is conveyed to the remainder portion of the property, shall be prepared by a title company or licensed surveyor for all lots affected by the boundary line adjustment or agricultural parcel reconfigurations.

(c) A title insurance certificate updated not more than 60 days prior to recording of the adjustment, which includes all parcels within the adjustment, submitted to the subdivision administrator with boundary line adjustment or agricultural parcel reconfiguration final review documents.

(d) A final boundary line or agricultural parcel reconfiguration map, prepared by a licensed surveyor, along with legal descriptions, shall be prepared and submitted for review and approval. Two map copies shall be provided for review demonstrating compliance with the preliminary boundary line adjustment or parcel reconfiguration approval.

(e) A boundary line adjustment or agricultural parcel reconfiguration is not considered approved until the conveyance documents have been duly stamped as exempt and is filed for record concurrently with all applicable disclosures of WCC 24.03.045 within 12 months of approval of final documents. Failure to record within 12 months of approval means the boundary line adjustment or agricultural parcel reconfiguration application is expired and must be resubmitted for review and approval (Ord. 2009-030 § 1 (Exh. 2); Ord. 2009-007 § 1; Ord. 2000-056 § 1).

21.03.070 Inactive applications.

An applicant may place an exempt land division, boundary line adjustment, or agricultural parcel reconfiguration application, which has not yet received preliminary approval, on hold for a cumulative maximum of 180 days. This 180-day period shall not include time the applicant is performing studies required by the county when the study is provided within the time frame agreed to by the county and the applicant. Applications which fail to meet these time limits will be considered expired and void. The time periods of this
chapter do not include the time during which the exempt land division was not actually pursued due to the
pendency of administrative appeals or legal actions or due to the need to obtain any other government
permits and approvals for the development that authorize the development to proceed, including all
reasonably related administrative or legal actions on any such permits or approvals. (Ord. 2009-007 § 1; Ord.
2000-056 § 1).

21.03.080 Requirements for a fully completed exempt land division application.
The following, and any other information on a form prescribed by the subdivision administrator, is required
for a complete application for exempt land divisions under WCC 21.01.040(2)(b) and (k).

(1) Written Data and Fees.
   (a) Name, address and phone number of land owner, applicant, and contact person.
   (b) Intended uses.
   (c) A current title report or update of title report issued no more than 60 calendar days prior to
       application.
   (d) Assessor’s parcel number (of the parent parcel).
   (e) Fees as specified in the Unified Fee Schedule.
   (f) Signature of all owners as shown on title report, and authorization for any agent to act on behalf of
       owners.

(2) Map Data.
   (a) Name of land owner.
   (b) Name of proposed land division (if an original drawing is prepared).
   (c) General layout of proposed land division.
   (d) Common language description of the general location of the land division.
   (e) Approximate location and names of existing roads identified as either public or private.
   (f) Vicinity map.
   (g) Common engineering map scale/north arrow/sheet numbers (on each sheet containing a map).
   (h) Section, township, range, and municipal and county lines in the vicinity.
   (i) General boundaries of the site with general dimensions shown.
   (j) Legal description of the land. (Ord. 2009-007 § 1; Ord. 2000-056 § 1).

21.03.085 Requirements for a fully completed boundary line adjustment or agricultural parcel
reconfiguration application.
The following, and any other information on a form prescribed by the subdivision administrator, is required
for a complete application.

(1) Written Data and Fees.
   (a) Name, address and phone number of land owner, applicant, and contact person.
   (b) Intended uses.
   (c) A current title report or update of title report issued no more than 60 calendar days prior to
       application.

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(d) Assessor's parcel numbers of existing parcels.
(e) Fees as specified in the Unified Fee Schedule.
(f) Signature of all owners as shown on title report, and authorization for any agent to act on behalf of owners.

(2) Map Data.
(a) Names of land owners.
(b) Name of proposed boundary adjustment.
(c) Common language description of the general location of the land division.
(d) Map at a common engineering scale of boundaries of existing parcels that are contributing to or receiving land from the proposed adjustment.
(e) Approximate location and labeling of any disputed or undetermined property lines proposing to be resolved by the adjustment.
(f) Clear depiction of property lines proposed for adjustment which identifies existing property lines and proposed property lines.
(g) Legal description and area of original parcels.
(h) Legal description and area of proposed adjusted parcels.
(i) Approximate location and names of existing roads identified as either public or private.
(j) Approximate location of existing buildings and existing on-site septic systems.
(k) Approximate locations of existing utilities and infrastructure.
(l) Vicinity map.
(m) Common engineering map scale/north arrow/sheet numbers (on each sheet containing a map).
(n) Section, township, range, and municipal and county lines in the vicinity.
(o) General boundaries of the site with general dimensions shown. (Ord. 2009-007 § 1).

21.03.090 Original drawing.

Repealed by Ord. 2009-007. (Ord. 2000-056 § 1).
CHAPTER 21.04 SHORT SUBDIVISIONS

Sections:

21.04.010 Purpose.
21.04.031 Pre-application meeting.
21.04.042 Short subdivision application submittal.
21.04.053 Determination of completeness and vesting.
21.04.064 Application procedures.
21.04.075 Final short subdivision review process.
21.04.086 Applications subject to time limits.
21.04.097 Restriction of further division.
21.04.108 Development requirements.
21.04.119 Roads.
21.04.120 Public dedications.
21.04.110 Easements.
21.04.121 Water supply.
21.04.132 Sewage disposal.
21.04.143 Fire protection.
21.04.154 Short subdivision vacation and alteration.
21.04.165 Land survey.
21.04.187 Requirements for a fully completed application for short subdivisions.
21.04.198 Final review and submittal.
21.04.209 Disclosures and notes.

21.04.010 Purpose.

The purpose of this chapter is to establish or reference the procedure and requirements for the application, review and approval of short subdivisions.


The provisions of WCC 20.40.253 - 254 provide for the segregation of a farmstead parcel with an existing residence(s) from a remainder parcel used for farming in the Agriculture Zone. The remainder parcel is restricted to agricultural use only. Because no further residential development can occur on the remainder parcel and an existing residential structure is already on the farmstead parcel, many of the standard short plat requirements are unnecessary. Therefore, a shortened review process has been established.

Agricultural short plats that qualify under WCC 20.40.253 - 254 shall be subject to the following:

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(1) Agricultural short plats that recognize an existing farmstead homesite shall be processed pursuant to all the requirements of this chapter except that the short plat will not be reviewed for compliance with:

(a) WCC 21.04.060 (Roads);

(b) WCC 21.04.090 (Water supply), when the remainder parcel will not require potable water;

(c) WCC 21.04.100 (Sewage disposal);

(d) WCC 21.04.130 (Land survey);

(e) Chapter 16.16 WCC (Critical Areas); and

(f) Shoreline master program.

(2) Any subsequent development must comply with all applicable codes.

(3) Survey Requirements—Partial. A survey, prepared by a professional land survey in accordance with WCC 21.09.010 and 21.09.020, which provides the location of at least two corners of the farmstead parcel shall be submitted. A survey is not required for the remainder parcel that cannot have further residential development.
CHAPTER 20.97 DEFINITIONS

Zoning Definitions

20.97.132 Farmstead parcel.

The "farmstead parcel" is the legally subdivided portion of the parent parcel containing an existing or planned farmstead home site. (Ord. 2005-073 § 1, 2005; Ord. 2001-020 § 1 (Exh. 1 § 3), 2001).

20.97.133 Farmstead home site.

The "farmstead home site" includes that portion of the parent parcel used for existing or planned residential buildings, uses accessory to residential buildings, drainfields, wells, wellhead protection area(s), established landscaped areas contiguous with the non-agricultural built area, and structures as allowed in WCC 20.40.25M (Ord. 2005-073 § 1, 2005).

Deleted: includes that
Deleted: property
Deleted: primary and secondary agricultural structures and the
Deleted: farmstead
Deleted: 2
Deleted: (a) through (d)
Ag Parcel Reconfiguration WCC 20.40 “Clean” Re-organization
AGRICULTURE (AG) DISTRICT
with DEFINITIONS from WCC 20.97.132 and .133

Re-organization of chapter showing clean (non-tracked) code changes through Jan 23,
and tracked code changes made on Jan 24 for selected chapters that are subject of the
Ag Parcel Reconfiguration proposed changes.

Existing Ag District Sections:

20.40.010 Purpose.
20.40.050 Permitted uses.
20.40.100 Accessory uses.
20.40.130 Administrative approval uses.
20.40.150 Conditional uses.
20.40.200 Prohibited uses.
20.40.250 Minimum lot size and land subdivision.
20.40.350 Building setbacks.
20.40.450 Lot coverage.
20.40.650 Development criteria.
20.40.651 Landscaping.
20.40.652 Drainage.
20.40.662 Use of natural resources.

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20.40.010 Purpose.

The primary purposes of this district are to implement the agricultural designation of the Comprehensive Plan, established pursuant to RCW 36.70A.170, preserve, enhance and support the production of food and fiber in Whatcom County, to maintain a sufficiently large agricultural land base to ensure a viable agriculture industry and to maintain the economic feasibility of supporting services. Whatcom County supports agricultural activities as the highest priority use in the Agriculture District, with all other uses being subordinate to agricultural activities. Whatcom County seeks to minimize conflict with surrounding zoning districts, in conjunction with Chapter 14.02 WCC, Right to Farm. In order to limit the further fragmentation of the commercial agricultural land base, the Agriculture District includes smaller areas of land with poorer quality soils or nonagricultural uses, which do not meet the definition of agriculture lands of long-term commercial significance.

A secondary purpose of this district is to serve as a holding district when located within the urban growth area Comprehensive Plan designation to allow agricultural uses in the near term while protecting the area from suburban sprawl and preserving the potential for future urban development consistent with the protection of the resource land. (Ord. 2009-071 § 2 (Exh. B), 2009; Ord. 2005-079 § 1, 2005; Ord. 2001-020 § 1 (Exh. 1 § 1), 2001).

20.40.250 Division or Modification of Parcels

It is the intent of this section to allow divisions which benefit the long-term viability of agriculture. This section describes the requirements for division or modification of parcels within the agricultural district that are either consistent with the minimum lots size or would result in substandard parcels or make existing substandard parcels further substandard.

Requests for land division, boundary line adjustment, or agricultural parcel reconfiguration in the Agriculture District shall be made on forms provided by the department and will be reviewed administratively. All divisions must comply with the following provisions:

(1) **Agricultural Divisions.** All divisions of land in the Agriculture District shall proceed in accordance with the local and state subdivision laws.

(2) **Allowable Density.** No division, boundary line adjustment, or agricultural parcel reconfiguration shall result in an increase in allowable density.

(3) **Additional Acreage.** Additional acreage gained through a boundary line adjustment or agricultural parcel reconfiguration shall not be considered in the total acreage calculations for determining density.

(4) **Plat Restrictions.** The following plat restriction is required, prior to recording, on the nonresidential lot of all divisions of land provided for in WCC 20.40.254(2):

    No further division or residential structure shall be allowed on this parcel unless and until changes in the zoning of this property occur consistent with State and local laws which would result in additional development density, in which case this restriction shall be null and void, and density and uses of the new zone shall apply to the property upon review by the Whatcom County zoning administrator.

(5) **Deed Restrictions.** Deed restrictions are required for all boundary line adjustments or agricultural parcel reconfigurations allowed under WCC 20.40.254 (3) and (4).
(a) The following language must be recorded separately and placed by reference of auditors file number on the deed, and placed on the tract map of the nonresidential portion of the adjusted parent parcels prior to recording:

The development density of the original parcel (parent parcel) remains with legal description _______. The _____ (# of acres) appended through boundary line adjustment [or agricultural parcel reconfiguration] to legal description _________ (receiving parcel) shall not be included in calculations to determine total development density for the receiving parcel.

(b) The following deed restriction language must be recorded separately and placed by reference of auditors file number on the deed, and is required when there is no additional means to further subdivide the property due to the parcel sizes and density standards of this zone:

No further division or residential structure shall be allowed on this parcel unless and until changes in the zoning of this property occur consistent with State and local laws which would result in additional development density, in which case this restriction shall be null and void, and density and uses of the new zone shall apply to the property upon review by the Whatcom County zoning administrator.

20.40.251 Minimum Lot Size.

The minimum lot size in the Agriculture District is 40 acres, except as provided for in WCC 20.40.253 and .254. The creation of a lot less than the minimum size is permitted only when the subject application meets the standards contained in WCC 20.40.253, .254 and .650 as applicable.

<table>
<thead>
<tr>
<th>Parcel</th>
<th>Minimum Lot Size</th>
<th>Minimum Lot Size Exceptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conventional Parcel</td>
<td>40 acres</td>
<td>Reconfiguring existing nonconforming parcels</td>
</tr>
<tr>
<td><strong>Farmstead Parcels Created through Agricultural Short Subdivision or Agricultural Boundary Line Adjustment</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Farmstead Parcel – Parent Parcel with Existing Farmstead with public water</td>
<td>1 acres</td>
<td>Up to 3 acres pursuant to WCC 20.40.253 (1),(2) &amp; (4)</td>
</tr>
<tr>
<td>Farmstead Parcel – Parcel with Existing Farmstead without public water</td>
<td>2 acres</td>
<td>Up to 3 acres pursuant to WCC 20.40.253 (1)- (4)</td>
</tr>
<tr>
<td>Farmstead Parcel – Parent Parcel without Existing Farmstead with public water</td>
<td>1 acre</td>
<td>Up to 2 acres pursuant to WCC 20.40.253 (1) &amp; (2)</td>
</tr>
<tr>
<td>Farmstead Parcel – Parcel without Existing Farmstead without public water</td>
<td>2 acres</td>
<td>Up to 3 acres pursuant to WCC 20.40.253 (1),(2) &amp; (3)</td>
</tr>
</tbody>
</table>

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## Parcels Created Through Agricultural Parcel Reconfiguration

<table>
<thead>
<tr>
<th>Reconfigured Parcel - reconfiguration with public water</th>
<th>1 acre</th>
<th>N/A</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reconfigured Parcel - reconfiguration without public water</td>
<td>1 acre</td>
<td>Up to 2 acres pursuant to WCC 20.40.253 (1),(2) &amp; (3)</td>
</tr>
</tbody>
</table>

## Parcel Created for Agricultural Purposes Only

| Created Parcel with deed restriction for no residential buildings | 10 acres | N/A |

### 20.40.252 Minimum lot width and depth.

(1) For parcels created consistent with the minimum lot size the: The minimum length to width ratio is 1/5. The terms “length” and “width” refer to the average length and average width of the parcel.

(2) For lots created or rearranged pursuant to WCC 20.40.254, the following lot width and depth shall apply:

<table>
<thead>
<tr>
<th>Minimum Width at Street Line</th>
<th>Minimum Width at Bldg. Line</th>
<th>Minimum Mean Depth</th>
</tr>
</thead>
<tbody>
<tr>
<td>70’ [A]</td>
<td>80’</td>
<td>100’</td>
</tr>
</tbody>
</table>

[A] Applies only to land divisions or parcel reconfigurations where the parcel(s) does not contain a farmstead homesite at the time of the application.

### 20.40.253 Farmstead or Reconfigured Parcel Minimum Lot Size Exceptions

The base maximum for the farmstead parcel shall be consistent with the minimum lots size in 20.40.251, except as follows:

(1) A greater area is determined necessary by the health officer pursuant to Chapter 24.05 On-Site Sewage System Regulations;

(2) A greater area is determined necessary by the responsible official to accommodate a driveway or other access necessary for the farmstead parcel;

(3) For farmstead parcels without public water: Unless substantial evidence is provided by the responsible official indicating the location is not feasible, wells and wellhead protection zones shall also be located within farmstead parcel. Wells located outside of the farmstead parcel area shall be sited to minimize potential impacts on agricultural activities.

(4) For farmstead parcels with existing farmstead homesites: There is an existing agricultural structure(s) within the farmstead parcel and any of the following criteria are met:
   
   (a) The separation between the agricultural structure(s) and the primary residential structure is less than 150 feet; or
   
   (b) Current use of the agricultural structure(s) is not related to an agricultural activity; or

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(c) There is a low potential for future use of the agricultural structure(s) to be associated with an agricultural activity due to physical condition or compatibility with agricultural practices; or

(d) Water is not available for use at the agricultural structure(s).

20.40.254 Separation of the Farmstead Parcel Criteria:

(1) The criteria for approval for the farmstead parcel and remainder parcel created through Agricultural Boundary Line Adjustment, Agricultural Short Subdivision and Agricultural Parcel Reconfiguration 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) A remainder parcel shall be created equal to or greater than 10 nominal acres; and

(e) 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, boundary line adjustment, or agricultural parcel reconfiguration for the remainder parcel prior to final approval; and

(f) 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 or subsequent purchasers of the remainder parcel for purchase of the farmstead parcel before they are offered on the open market; and

(g) 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

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

(i) The overall submittal shall comply with WCC 20.40.250 et seq.

(2) Agricultural Short Subdivisions. Agricultural Short subdivisions for the purpose of reducing the acreage below the minimum lot size as provided by WCC 20.40.251 for a farmstead homesite shall comply with the following provisions:

(a) The minimum parcel size is the area necessary to accommodate a house site which meets the applicable dimensional requirements of all applicable code and provides a remainder (appended) parcel equal to or greater than 10 nominal acres; and

(b) The short subdivision application shall meet the size and performance standards of WCC 20.40.650.
(3) **Boundary Line Adjustments.** Boundary line adjustments for the purpose of reducing the acreage below the minimum lot size as provided by WCC 20.40.251 of an existing or proposed farmstead parcel if such boundary line adjustment complies with the following provisions:

(a) Boundary line adjustments shall not make a lot substandard or further substandard, except as provided for in WCC 20.40.251.

(b) The minimum parcel size is the area necessary to accommodate a house site which meets the applicable dimensional requirements of all applicable codes and provides a remainder (appended) parcel equal to or greater than 10 nominal acres; and

(c) The farmstead parcel and boundary line adjustment application shall meet the size and performance standards of WCC 20.40.250 and .251, and the siting criteria of WCC 20.40.650.

(4) **Agricultural Parcel Reconfiguration:** Parcels are reconfigured and finalized according to the agricultural parcel reconfiguration process established in Chapter 21.03, Exempt Land Divisions, Boundary Line Adjustments, and Agricultural Parcel Reconfigurations, and when meeting the following performance standards:

(a) Existing parcels to be reconfigured are:

(i) Smaller than the minimum lot size established for new lots in the Agriculture district. Parcels which meet the minimum lot size may be adjusted as a part of this process, provided the reconfiguration meets the provisions of (4)(b) below;

(ii) Determined to be legally created and buildable pursuant to WCC Title 21.01.180.

(b) Proposed parcel(s) results in the following:

(i) No additional parcels; and

(ii) A remainder parcel shall be created equal to or greater than 10 nominal acres; and

(iii) The siting criteria of WCC 20.40.650 are met and development standards of WCC 20.40.252 et seq. are met; and

(iv) The reconfiguration shall result in achieving four (4) or more of the identified agricultural-related purposes as follows:

(A) Expand the amount of commercially viable resource land under contiguous single ownership; and/or

(B) Protect and buffer designated resource lands; and/or

(C) Reduce impervious surfaces, such as by reducing the amount of road and utility construction required to serve reconfigured lots, or by reducing the amount impervious area for nonagricultural uses that could otherwise occur without parcel reconfiguration; and/or

(D) Reduce the total number of lots of record through voluntary consolidation; and/or

(E) Produce a farm management plan approved through the Whatcom Conservation District or WA Department of Agriculture that demonstrates increased viability of the agricultural operation through the agricultural parcel reconfiguration; and/or

(F) Enable improved floodplain management in cooperation with Whatcom County Public Works; and
(viii) Reconfigured lots shall not be further adjusted by boundary line adjustment without approval under this section.

(c) The responsible official may impose conditions, consistent with Whatcom County Code, on the agricultural parcel reconfiguration to further the purposes of this section.

(d) Parcel reconfigurations will be tracked by County Planning and Development Services so the procedure can be adaptively managed by review of all projects passed per this code in year 2017.

(5) **Public Facility.** The division is for the purpose of public facilities for health and safety use or expansion of such uses; provided, that:

   (a) The division or boundary line adjustment will not adversely affect the surrounding agricultural activities; and

   (b) The applicant has demonstrated to the administrator’s satisfaction that the siting of the proposed use cannot be located in an adjacent zoning district or alternative site, if the area is intensively farmed.

(6) **Division or Boundary Line Adjustment for Agricultural Purposes Only.** Lots smaller than the minimum lot size of WCC 20.40.251 may be created through land division or re-arranged through a boundary line adjustment provided the following:

   (a) The parent parcel does not contain an existing residence, or said existing residence will remain on a parcel larger than 40 acres in size; and

   (b) The parcel created is greater than 10 acres or is appended to another parcel; and

   (c) There is a properly executed deed restriction which runs with the land on lots which have been created through the division or modified by the boundary line adjustment, except those lots at or over 40 acres in size that maintain an associated development density. Such deed restriction shall be substantially similar to that listed under 20.40.250(5), approved by the zoning administrator and recorded with the County Auditor specifying:

      (i) All land divided or parcels adjusted are to be used exclusively for agricultural or flood management purposes and specifically not for a dwelling(s), and

      (ii) All land divided or parcels adjusted shall have no residential density, and

      (iii) For land divisions, the acreage of the newly created parcels shall not be included in calculations to determine total development density in the future, and

      (iv) For boundary line adjustments, the acreage of the newly created parcel and appended portion shall not be included in calculations to determine total development density in the future.

20.40.255 **Consolidation of Adjacent Tracts.**

Consolidation of adjacent tracts in the same ownership shall be required in accordance with 20.83.070 in approval of any subdivision, short subdivision, agricultural parcel reconfiguration, or boundary line adjustment in the Agricultural District. The County may waive the permit fee for a boundary line adjustment or agricultural parcel reconfiguration where adjacent lots of record are not in the same ownership and are consolidated voluntarily for purposes of the agricultural parcel reconfiguration, or boundary line adjustment.

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20.40.256 Establishing Intent.
The burden of establishing intent in and legal proceeding relating to a transaction accomplished or proposed under the authority of this section shall be upon the land owner or purchaser.

20.40.350 Building setbacks.
Building setbacks shall be administered pursuant to WCC 20.80.200 (Setback Requirements). Building setbacks for parcels of less than five nominal acres shall be administered pursuant to WCC 20.80.250.

20.40.450 Lot coverage.
No structure or combination of structures, including accessory buildings, shall occupy or cover more than 25 percent of the total area of the subject parcel. Exceptions to the maximum lot coverage may be allowed when any of the following can be demonstrated:

1) Proposed structures, in excess of the allowed maximum lot coverage, are located on lesser quality soils.

2) Proposed structures in excess of the allowed maximum lot coverage support additional agricultural production on parcels other than the subject parcel.

3) Expansion of facilities that were in operation prior to the adoption of the ordinance codified in this section if it can be demonstrated that substantial on-site investment has been made and location of additional structures off-site would cause an economic hardship to the farm operation.

20.40.650 New or Modified Parcel Siting Criteria
The location of vacant farmstead parcels or parcels arranged through agricultural parcel reconfiguration (which may or may not be vacant) shall be consistent with the following siting criteria and standards:

1) Minimum Lot Size. Parcels shall be consistent with WCC 20.40.251.

2) Parcel Design. Parcels shall be located and arranged to provide the maximum protection of agricultural land located both on and off-site. Parcel design and development shall be as follows:

   (a) The residential parcels shall be configured so that property lines are immediately adjacent and physically contiguous to each other. A maximum of two development areas containing no more than four (4) lots may be allowed. The two development areas shall contain no more than a total of six lots, and shall be separated by a minimum of 500 feet to minimize the visibility of the future development and reinforce the purposes of the zone; provided that reductions in the separation standard by up to 10% are allowed if an applicant can demonstrate that the future development visibility from the public right of way or from neighboring properties is minimized and the purposes of the parcel reconfiguration in WCC 20.40.254(4)(b)(iv) are met; and

   (b) Residential parcels shall be located as close as possible to existing public roads, or if none about the property then to existing access roads. New road or driveway development shall be avoided to the maximum extent feasible; and

   (c) Except for parcels that recognize existing farmsteads, residential parcels shall be located to the extent feasible to maximize the remainder lot configuration and farmable area; and
(d) Except for reconfigured parcels that recognize existing farmsteads, each reconfigured parcel shall be limited to one single family residence and residential accessory structures; and

(e) Residential building sites shall maintain sufficient separation from on-site and off-site agricultural resources and exterior property lines. The setback, lot coverage, and height standards for reconfigured lots shall be as established in WCC 20.40.350 to 450; and

(f) Applicants shall verify that reconfigured parcels or farmstead parcels do not prohibit access to a point of withdrawal for any irrigation water rights certificates, claims, permits, or applications on the affected parcels; and

(g) All development shall be consistent with WCC Chapter 16.16; and

(h) The farmstead parcel or reconfigured parcels avoid prime soils to the extent feasible. Where the site is predominantly in prime soils and such cannot be avoided, the applicant shall demonstrate that:

(i) the parcels are sized to be as small as feasible pursuant to WCC 20.40.251; and

(ii) located to maximize the agricultural use of the remainder lot; and

(iii) achieve the most suitable locations for parcels in terms of minimizing roads, allowing for water availability, and septic suitability.

(3) Substitute Parcel Design Standards. Applicants proposing a farmstead parcel or agricultural parcel reconfiguration may propose a substitute performance standard in place of a listed standard in .650 (New or Modified Parcel Siting Criteria) provided that the applicant submits a written justification demonstrating the substitute standard better or equally meets the purposes of the zone in WCC 20.40.010 and the agricultural-related purposes described in WCC 20.40.254(4)(b)(v); except under no condition shall more than the maximum of six (6) residential parcels with no more than four (4) lots in one development area be allowed. Such substitution shall be considered at the Administrator’s discretion.

Chapter 20.97 DEFINITIONS

Zoning Definitions

20.97.132 Farmstead parcel.
The “farmstead parcel” is the legally subdivided portion of the parent parcel containing an existing or planned farmstead home site. (Ord. 2005-073 § 1, 2005; Ord. 2001-020 § 1 (Exh. 1 § 3), 2001).

20.97.133 Farmstead home site.
The “farmstead home site” includes that portion of the parent parcel used for existing or planned residential buildings, uses accessory to residential buildings, drainfields, wells, wellhead protection area(s), established landscaped areas contiguous with the non-agricultural built area, and structures as allowed in WCC 20.40.253. (Ord. 2005-073 § 1, 2005).
Regular Meeting

Call To Order: The meeting was called to order, by Whatcom County Planning Commission Chair, Michelle Luke, in the Northwest Annex Conference Room at 6:30 p.m.

Roll Call
Present: Michelle Luke, Ben Elenbaas, John Lesow, Ken Bell, Rod Erickson, Gary Honcoop, David Onkels, Jeff Rainey, Mary Beth Teigrob

Staff Present: Sam Ryan, Samya Lutz, Peter Gill, Becky Boxx

Department Update
Sam Ryan updated the Commission on the search for a new Long Range Division Planning Manager.

Commissioner Lesow asked if there has been any decision from county legal staff regarding the slaughter house issues. Sam Ryan stated slaughterhouses can be outright permitted. Staff will have more information at an upcoming meeting.

Open Session for Public Comment

Kate Bystone, Whatcom County: Introduced herself as the new Director of the Whatcom Chapter of Futurewise.

Joan Dow, Whatcom County: Stated she is reading the book Hostile Takeover- Resisting Controlled Government’s Stranglehold on America by Matt Kibbe. She read a short passage from the book.

Commissioner Comments
Commissioner Lesow commented on the blog Get Whatcom Planning. He commented on the blog’s addressing of the slaughterhouse issue which received 51 comments. The blog on the rural element issue has received no comments.

Commissioner Onkels commented on comments he made on the Get Whatcom Planning blog. Discussions on this blog set new records.

Commissioner Rainey commented on the maps of Whatcom County which show less than one third of the county. He thinks a lot of people forget the amount of resources in the eastern part of the county.

File #PLN2012-00007 – Agricultural Strategic Plan. An opportunity for Agricultural Advisory Committee (AAC) members, staff, and Planning Commission members to discuss the county agricultural program, the Agricultural Strategic Plan (ASP), the work of the AAC, and how future implementation items that will come before the Planning Commission fit in with these initiatives.

Samya Lutz gave a power point presentation and overview of the ASP.
The AAC is governed by county code to provide a forum for discussion of agricultural issues. There are 14 members.

There are approximately 102,500 acres of land in farming in the county according to the USDA.

There is approximately 325 million in annual market value of agricultural products.

The ASP was created by the AAC and endorsed by the County Executive and County Council in 2011. It outlines priority tasks to implement over 5 years.

There is approximately 85,000 acres designated as agricultural land. There is additional 2,750 acres of agricultural land in some of the Urban Growth Areas.

There is also an Agricultural Protection Overlay Zone (APO) which cover the Rural zoned lands. This can't be clearly mapped so there is a general estimate of the acreage of 57,000 acres. It is based on prime soils and the open space tax designation.

There are 10 Purchase of Development Rights target areas. These are priority areas for PDR easement purchase and for conserving agricultural lands.

In 2007 the Rural Lands Study areas were designated. These are Rural zones areas that are primarily adjacent to agriculture and have viable agricultural operations.

The Commission, committee members, staff and the audience discussed the following:

The Rural Lands Study. The AAC played a major role in the project and was done at their request. The goal was to look at rural zoned areas for possible additional protection for agriculture use. Whatcom Farm Friends was part of the review committee which was followed by a public process. Tools were created based on incentives. It is estimated there are approximately 3,900 development rights in the target areas. A goal of 100,000 acres of agricultural land was adopted. Would changing the zoning be an option?

The Agricultural Strategic Plan. There are four objectives.

- 100,000 acres of agricultural land
- Effective land and water programs and regulations
- Maintain public input
- Measure progress

The Agricultural Protection Overlay. There has been some discussion regarding doing away with the overlay. Henry Bierlink, from Farm Friends, stated it is clumsy and not very strategic. However he would not like it to go away until something else is in place. Todd Jones, of the AAC, stated critical areas take up a lot of the farmable land and homes tend to be put on the prime soils because they perk the best. Homes should not be allowed on the prime soils.
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July 12, 2012

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- Is the 100,000 acres set aside for farming all farmable land or does it include
  buffers, CREP (Conservation Reserve Enhancement Program), etc? Debbie Vander
  Veen, of the AAC, stated it includes these unusable lands. Can the County work to
  reduce buffers, etc? Probably not because it is mostly controlled by the State and
  Federal governments. However, the county can work to get ditches drained and
  reduce setbacks.

- Members discussed the benefits and problems with the CREP program. Flooding is
  one of the major issues.

- Purchase of Development Rights program. This is a voluntary program in which the
  farmer gives up any right to develop their property and agrees to certain
  contractual obligations. The purchase price of the development rights is the current
  market price. Funding is from the state or federal government and from the
  County. The Whatcom Land Trust is in charge of monitoring the program. Some
  stated they are hard to work with.

- Right to Farm. Is there a way to strengthen the rules to help the farmers? Chuck
  Antholt, former member of the AAC, stated the rules do need to be strengthened,
  specifically recognizing the changing best management practices, changing markets
  and changing ecology.

- Parcel Reconfiguration. How will it help? It allows farmers, with multiple parcels, to
  reconfigure them so it accommodates development in the agricultural lands by
  making sure it occurs in the best place possible to maintain farming. It is a
  voluntary program.

- Ditches need to be given a higher priority for cleaning. This will help with draining
  prime soils and flooding.

- The County needs to put more work into water rights issues.

The meeting was adjourned at 8.45 pm

Minutes prepared by B. Boxx.

WHATCOM COUNTY PLANNING COMMISSION ATTEST:

Michelle Luke, Chair

J.E. "Sam" Ryan, Secretary
Regular Meeting
Regular Meeting

**Call To Order:** The meeting was called to order, by Whatcom County Planning Commission Chair, Michelle Luke, in the Northwest Annex Conference Room at 6:30 p.m.

**Roll Call**
Present: Michelle Luke, Ben Elenbaas, John Lesow, Rod Erickson, Gary Honcoop, David Onkels, Mary Beth Teigrob
Absent: Ken Bell, Jeff Rainey

**Staff Present:** Tyler Schroeder, Samya Lutz, Amy Keenan, Becky Boxx
**Others Present:** Lisa Grueter of BERK & Associates-Consultant

**Department Update**
There was no department update

**Open Session for Public Comment**
Joan Dow, Whatcom County: Commented on how difficult it must be for business owners to understand government regulations.

**Commissioner Comments**
Commissioner Onkels stated he went to Commissioner Rainey’s dairy farm. He toured the new milking parlor which has some of the newest technology.

Commissioner Lesow wagered $50.00 stating the Growth Management Hearings Board will remand the Rural Element which was recently passed by the County Council.

**Approval of Minutes**
May 10, 2012: Teigrob moved to approve as written. Onkels seconded. The motion carried.
June 28, 2012: Honcoop moved to approve as written. Erickson seconded. The motion carried.

July 12, 2012: Onkels made the following change to page 1, line 34 to read: Onkels commented on comments he made on the *Bellingham Herald Get Whatcom Planning* politics blog. Teigrob moved to approve as changed. Onkels seconded. The motion carried.

July 26, 2012: Luke made the following change to page 2, line 1 to read: The Commission stated there are numerous public accesses and tax issues being offered. Lesow moved to approve as changed. Elenbaas seconded. The motion carried.

File #PLN2012-00007: Agricultural Parcel Reconfiguration. Proposed amendments to portions of the Official Whatcom County Zoning (Title 20) and Subdivision (Title 21) Ordinances are four categorical changes related to the Parcel Reconfiguration task as recommended in the Ag Strategic Plan.
Samya Lutz, Amy Keenan and Lisa Grueter gave an overview of the issues.

- The purposes of the amendments are to attempt to provide more options for farmers to keep their agricultural land in farming.
- Make the regulations as easy and cost efficient as possible.
- The proposed tools will add options to what is currently available, not replace them.
- The regulations would allow for rearrangement of parcels, within or across ownership, to create the best possible area for development on agricultural land while maintaining the best areas for agricultural use.
- New development would ideally be placed close to roads, which results in less infrastructure, etc. and be close to one acre in size.
- Existing homes would allow up to three acres for development.
- The review committee looked at ways to simplify the reconfiguration process. One suggestion is to combine the legal lot determination and the buildable lot determination. (This suggestion is included as a future option).
- Regarding the Transfer of Development Rights, currently there is no way to transfer rights from agricultural lands. The County would like to do more review of this to make it possible.
- Review of the program could include:
  - Add language to the code to state that by 2017 the County will conduct a review of the code and permits issued under parcel reconfiguration.
  - Refer back to the Agricultural Strategic Plan, which calls for biennial status reports.
- Changes to the zoning code would include:
  - In 20.40 amend the farmstead parcel creation language to allow new lots to be established before homes are built.
  - Have guidelines for where structures would be placed on parcels created.
  - Larger setbacks so there is less potential for conflicting uses.
  - Language exempting parcel reconfiguration from creating parcels less non-conforming.
  - Adding language for parcel reconfiguration.
  - Add language to the definitions.

The Commission had the following questions and comments:

- Why would a farmer want to separate a farmstead area from the rest of the parcel? Bank funding may be one of the reasons.
- Why would a farmer want to create a farmstead base before building? People already do this, the County just wants to make it easier.
- Why the proposed 500 feet of separation between farmstead parcels? This is to maintain visual compatibility with surrounding agricultural uses.
- Some members of the Commission stated the rules are too restrictive regarding siting of development.
- What is better, having the development grouped together or spread out? Henry Bierlink, of Whatcom Farm Friends, stated it is better to have it grouped together, within limits.
- Will these provisions accelerate development? Henry Bierlink’s response was it may.
- Some stated the focus is on public benefit and not protecting property rights.
File #PLN2012-00008: Small Scale Slaughterhouses: The proposal is to amend the Agriculture (AG) District portion of the Zoning Code (WCC 20.40) to allow for agricultural slaughtering facilities.

Tyler Schroeder provided the Commission with an update and comparisons to other counties as they had requested.

Lesow moved to approve the original staff recommendation presented on June 14, 2012, and to not include any changes made at subsequent meetings. Luke seconded. Roll Call Vote: Ayes – Lesow; Nays – Elenbaas, Erickson, Honcoop, Luke, Onkels, Teigrob; Absent – Bell, Rainey; Abstain – 0. The motion failed.

The Commission made the following comments and suggestions:
- There needs to be more regulation than what is proposed.
- The County needs to have regulations to keep it economically viable for businesses to locate here.

Onkels moved to change 20.97.010.2 Agricultural slaughtering facility to read: “Agricultural slaughtering facility” means a facility that engages in slaughtering, on or off site, and the processing of agricultural slaughter products in accordance with local, state, and federal health and agricultural regulations. Agricultural slaughter facilities do not include rendering facilities. The motion failed.

Honcoop moved to add: The facility cannot employee more than 20 full time employees or it becomes subject to a conditional use permit. Teigrob seconded. The motion failed.

Teigrob moved to change 20.80.255 (2) Agriculture District to read:
The minimum separation between new residences not located on the same property and farm uses such as barns, pens, milking sheds, or areas used to contain, house or feed animals or store manure or feed, shall be 300 feet. New farm uses such as barns, pens, milking sheds, agricultural slaughtering facilities, ...

Onkels seconded.

Honcoop made a friendly amendment to add to the motion: The minimum separation between new residences not located on the same property and farm uses such as barns, pens, milking sheds, agricultural slaughtering facilities, or areas used to contain, house or feed animals or store manure or feed, shall be 300 feet. Teigrob seconded. The motion carried.

The vote on the main motion carried.

Elenbaas moved to recommend approval of the staff report with the changes made to date. Onkels seconded. Roll Call Vote: Ayes – Elenbaas, Onkels; Nays –
Regular Meeting

Erickson, Honcoop, Lesow, Luke, Teigrob; Absent – Bell, Rainey; Abstain – 0. The motion failed.

Teigrob moved to add: The facility cannot employee more than 20 full time employees or it becomes subject to a conditional use permit. Honcoop seconded. The motion carried.

Teigrob moved to recommend approval of the staff report with the changes made to date. Erickson seconded. Roll Call Vote: Ayes – Elenbaas, Erickson, Honcoop, Luke, Teigrob; Nays – Lesow, Onkels; Absent – Bell, Rainey; Abstain – 0. The motion carried.

The meeting was adjourned at 10:30 p.m.

Minutes prepared by B. Boxx.

WHATCOM COUNTY PLANNING COMMISSION ATTEST:

Michelle Luke, Chair  J.E. “Sam” Ryan, Secretary
Call To Order: The meeting was called to order, by Whatcom County Planning Commission Chair, Michelle Luke, in the Northwest Annex Conference Room at 6:30 p.m.

Roll Call
Present: Michelle Luke, Ben Elenbaas, John Lesow, Ken Bell, Rod Erickson, Gary Honcoop, David Onkels, Jeff Rainey, Mary Beth Teigrob
Absent:

Staff Present: Mark Personius, Samya Lutz, Gary Davis, Amy Keenan.

Department Update
Postponed to the end of the meeting.

Approval of Minutes of October 11, 2012.
Postponed to the end of the meeting.

Open Session for Public Comment
Joan Dow, Whatcom County: Stated it was a pleasure to attend the meetings because of the very high intelligence level of the Planning Commissioners.

Commissioner Comments
Commissioner Erickson stated he attended the Climate Change seminar earlier in the day. He found it was well presented and informational.

Commissioner Bell stated he attended the County Council meeting regarding Lake Whatcom stormwater. He requested the Council send it back to the Commission for review because the stormwater manual has now been published.

Commissioner Lesow stated he was pleased to see former Commissioner John Steensma in attendance.

Commissioner Rainey thanked Wes Kentch for attending the meeting. During a road trip he stopped at Newhalem and talked with the manager at Seattle City Light. The manager stated he would like to give the Commission, Council, Executive, etc. a tour of the area. He gave rainfall totals for various areas of the county.

Public Hearing
File #PLN2010-00024 - A proposed zoning map amendment to rezone approximately 552 acres south of Smith Road and west of Guide Meridian, located in Section 36, T.39 N., R.2 E. and Section 1, T.38 N, R.2 E., Assessor’s Parcels 390236200270 (portion), 390236445440 (portion), 380201074504, and 380201202508, from Rural 1 dwelling unit per 5 acres (R-5A) to Rural 1 dwelling unit per 10 acres (R-10A).

Gary Davis gave an overview of the amendment. This is part of a settlement agreement with Caitac approved by the County Council in September 2012. Under the settlement
agreement the rezone that was approved in 2011 is to be repealed. Staff recommends
approval of the action.

The hearing was opened to the public.

Simi Jain, Whatcom County: Representing Caitac. Urged the Commission to approve the
rezone. She recommended the following finding be added: The rezone action bears a
substantial relationship to the public health, safety, morals or welfare.
The hearing was closed to the public.

Onkels moved to approve the staff recommendation of approval along with the
finding suggested by Ms. Jain. Teigrob seconded. Roll Call Vote: Ayes – Bell,
Erickson, Lesow, Luke, Onkels, Rainey, Teigrob; Nays – Honcoop; Abstain –
Elenbaas; Absent – 0. The motion carried.

Public Hearing

File #PLN2012-00007 - Agricultural Parcel Reconfiguration. Proposed amendments to
portions of the Official Whatcom County Zoning (Title 20) and Subdivision (Title 21)
Ordinances for categorical changes related to the Parcel Reconfiguration task as
recommended in the Ag Strategic Plan File. Changes include: Change to Ag Farmstead
Parcel creation, a new Ag Parcel Reconfiguration Tool, Ag Siting Criteria, and Procedurally
treating Ag Parcel Reconfigurations similar to Boundary Line Adjustments.

Samya Lutz gave a brief review of the history of the project.
  • The County has an adopted Agricultural Strategic Plan which was endorsed by the
    County Council and Executive in 2011.
  • A committee was formed, in 2008, to look at potential incentives for the agricultural
    sector. These recommendations were passed on to the Agricultural Advisory
    Committee who adopted the tools and incorporated them into the plan.
  • The Executive approved a contract with Berk and Associates to help staff with the
    parcel reconfiguration tool.
  • The tool is intended to add options and flexibility.

Amy Keenan reviewed the current subdivision options.

Samya stated the tool is defined as a rearrangement of parcels within and across
ownership to place existing development potential in areas that are the least valuable as
farmland in a manner that benefits the county and the landowners and is consistent with
other state and local priorities.

What’s being proposed is:
  • To allow agricultural boundary line adjustments and agricultural short plats in
    advance of a home being built.
  • Allow reconfiguration of existing lots.
  • Siting criteria is being added.
  • An additional exemption for divisions for agricultural purposes only.
The hearing was opened to the public.

Larry Stoner, Whatcom County: Worked for Whatcom County Planning from 1973 to 2000. Now has a consulting business and was approached by some farmers to look into the reconfiguration idea. He thinks it is a good idea, however it has become more complex than he originally thought it needed to be. He will present written ideas how to simplify the process. He does not like the proposed stipulation consolidation of adjacent tracts in the same ownership will be required. He thinks this is a taking. He also stated he does not support the $1,200 application fee. He suggested it be $100.

Kate Blystone, Whatcom County: Representing Futurewise. They support the idea of creating a more viable agricultural base through the large lots, the siting criteria, it protects farms and farmers. It should be applied to the whole agricultural zone, not just the specified area. Their concerns with the concept are it appears to take lots and make them smaller and more saleable. It creates conflict between potential residential and agricultural uses. They suggest adding a Transfer of Development Rights piece to this. They will add specifics in written form at a later date.

Larry Helm, Whatcom County: Was on the subcommittee that worked on this issue. The regulations are too complex. They need to be simplified. Has a problem with deed restrictions.

John Kirk, Whatcom County: Has five acres. Families need to be encouraged to live where they are producing their product. Family farms keep the farmers from paying wages to farm help. Binding the properties together prevents artisanal style products being produced on the land. He asked where staff gets there language for code.

Staff stated research was done looking at regulations from other counties and the work was done in house and with the committee. She also clarified that these regulations are an added option, so it does not take away from what Mr. Kirk would like to do on his property.

Max Perry, Whatcom County: The rules should be as simple as possible.

Henry Bierlink, Whatcom County: Executive Director of Whatcom Farm Friends. They have helped set agricultural policies over the last 20 years. Their goal is to protect high value agricultural land and for protection for property rights. They support the PDR program and hope to see a TDR program developed. They also support the proposed agricultural reconfiguration. Fix what needs to be fixed and move it forward in the process.

Larry Stoner: This process needs to work between the agricultural zone and the RSA zone. The densities need to be taken out of the agricultural zone and put in the rural zones.

Carole Perry, Whatcom County: She attended the reconfiguration meeting held several months ago. She did not receive any notification of the meeting. This information is very complicated. Laws should be understandable and stable.

Larry Helm: Stated a lot of people worked very hard on the proposal.
Regular Meeting

The hearing was closed to the public.

Submission of written comments will be held open to November 15th.

The Commission reviewed the proposed verbiage in 20.40. They had comments regarding:

- 20.40.250 – Questioning the length to width ratio of 1 to 5.
- The one acre lot size is not realistic. It should be larger to accommodate the well, septic, etc.
- Are accessory dwelling units allowed? Staff stated they are, as stated in the current code, on the residential piece but would not be allowed on the remaining parcel used for agricultural purposes.
- The regulations are too complicated.
- Inclusion of a lot line adjustment that would result in non-conforming parcel less than 40 acres for errors. Staff stated there are provisions for this.
- The code is hard to read and needs to be organized better.
- The land should dictate where the development should go, not the regulations.
- Regarding 20.40.650(2)(a), how was 500 feet derived at? Staff stated this is related to the short plat provisions and other county precedents.
- Boundary line adjustments are a concern because a lot of them are based on parcel lines that are not accurate.
- Consolidation of tracts has an effect on financing ability.
- Do two of the siting criteria need to be met in order to do this? Staff stated yes.
- Regarding 20.80.255(3), how was the side yard setback of 30 feet arrived at?
- Regarding 20.80.255(3), would like to see this reworded to clarify placement of structures in relation to the critical areas and prime soils.

Department Update

Mark Personius addressed TDRs. Staff had a meeting with the Agricultural Advisory Committee the previous week to discuss the issue. There are grant monies available for watershed protection measures. The committee is in favor of pursuing a grant. He then asked if the Commission would be in favor of this. They stated they would like more information regarding the grant.

Approval of Minutes of October 11, 2012.
Bell moved to approve the minutes as written. Onkels seconded. The motion carried.

Other Business

Commissioner Luke asked for a Comprehensive Plan Review update at the November or December meeting. Staff stated they will present this at the December 13th meeting.

The meeting was adjourned at 9:30 p.m.

Minutes prepared by B. Boxx.
Regular Meeting

WHATCOM COUNTY PLANNING COMMISSION ATTEST:

Michelle Luke, Chair                      J.E. "Sam" Ryan, Secretary
Regular Meeting

Call To Order: The meeting was called to order, by Whatcom County Planning Commission Chair, Michelle Luke, in the Northwest Annex Conference Room at 6:30 p.m.

Roll Call
Present: Michelle Luke, John Lesow, Ken Bell, Rod Erickson, Gary Honcoop, David Onkels, Jeff Rainey, Mary Beth Teigrob. Ben Elenbaas in attendance at 6:37 p.m.
Absent:

Staff Present: Mark Personius, Gary Davis, Samya Lutz, Amy Keenan, Becky Boxx

Department Update

Mark Personius stated that at the next meeting staff will review the 2016 Comprehensive Plan update schedule. He stated that the slaughter house and six year CIP amendments are moving through Council.

Open Session for Public Comment

There was no public comment.

Commissioner Comments

Commissioner Lesow commented on an email he received from Jack Petree which addressed the population update. Commissioner Lesow stated that Mr. Petree accused him of killing the economy of Whatcom County.

Commissioner Lesow stated he attended the Building Industry Association banquet.

Commissioner Bell addressed his expectations as a Planning Commissioner. He thought they would have more input on policy decisions and be able to direct staff. Even though the Commission shouldn’t be reviewing everything, line by line, he feels they have to because staff is not doing what they ask (specifically asking for a reorganization of the Agricultural reconfiguration ordinance). He no longer trusts staff to do what the Commission asks.

Mark Personius stated he appreciated Commissioner Bell’s comments. He also appreciates all of the time the Agricultural Advisory Committee and staff spent working on the issue. He stated he was hesitant to redo everything they had done.

Commission Lesow stated the mandate of the Planning Commission is to provide citizen review. It is not supposed to rewrite staff reports. The Planning Commission is supposed to listen to the public and incorporate their comments, not have things the way the Planning Commission wants them. It is up to Council to set policy. If a member doesn’t agree with what the Commission arrives at they can go before the Council with their viewpoint or write a minority report. They need to appreciate that staff and committees are the experts on the subjects.
Commissioner Luke stated she doesn’t see that Council is telling the Commission they are doing their job incorrectly. They seem to appreciate the work they have done.

Approval of Minutes of October 25, 2012.

Teigrob moved to approve the minutes as written. Erickson seconded. The motion carried.

File #PLN2012-00006 – Specified Fittings. A proposed Comprehensive Plan Amendment to change the land use designation from Rural to Rural Community (LAMIRD per RCW 36.70A.070(5)(d)(i)), and a proposed zoning map amendment to rezone from Rural 1 dwelling unit per 5 acres (R-5A) to Rural Industrial Manufacturing (RIM) approximately 2 acres on the north side of Smith Road about 500 feet west of Guide Meridian, located in Section 25, T.39 N., R.2 E., Assessor’s Parcel 390225459079.

Gary Davis presented the staff report. The entire parcel is approximately 12 acres. The northern 10 acres is in the RIM zone, within the LAMIRD. The remaining southern 2 acres is in the R5A zone. The zoning line was drawn approximately along the power line corridor. The request is to rezone the southern portion to RIM and include it in the LAMIRD. Regarding the LAMIRD criteria this parcel would seem to meet that because the larger portion of the property had a built environment as of 1990. This rezone would allow the existing business to utilize more of its property for storage without significant impact on the environment or rural character. If rezoned the property would be subject to the zoning code’s requirements for landscape buffering along Smith Road. Staff recommends approval of the amendments. Finding #3 should be corrected to read: the DNS was issued on November 9, 2012, not November 6. Also add an additional finding stating: “On January 9, 2012 a Growth Management Hearing Board order found the provisions of the RIM zone to be noncompliant with GMA and invalid. Whatcom County Council made changes to the RIM provisions in Ordinance 2012-032, adopted on August 7, 2012. The Board considered those changes at a hearing on October 1, 2012 and, as of the date of these findings, has not issued a decision on whether to lift the order of invalidity.”

Commissioner Rainey asked why the 2 acre area was not originally zoned the same as the 10 acres.

Gary stated it was done a long time ago and did not know the reason.

Commissioner Onkels stated Comprehensive Plan Goal 2JJ-3 says there will be no new Rural Community lands and no changes to the Rural Community LAMIRD boundaries. How does this work with that?

Gary stated if a county can prove that an error was made or a proposal meets the criteria of the Comprehensive Plan and GMA then it is okay to change LAMIRD boundaries.

The hearing was opened to the public.

Greg Gundel, Whatcom County: The applicant. He and his partners started the company 16 years ago. They employ 135 people in Whatcom County and 25 in Montana. They have
had some growth over the years and are running out of space. The two acres they are trying to rezone is important to that growth and will be used for storage of their product. They will do what is required by the County as far as buffering.

Phil Serka, Whatcom County: Attorney for the applicant. Staff did a good and thorough job on their report. The property shouldn't have been split zoned in the first place. There is no way a home will be zoned on the 2 acres so it makes no sense to have it zoned residential. The applicant has been working with BPA regarding the power lines. He asked that the Commission recommend approval of rezone.

Chet Dow, Whatcom County: Thanked the Commission for their service. Stated the rezone was a matter of common sense. In the RCWs it states that counties should promote the retention and expansion of existing businesses and recruitment of new businesses. It also states to retain and enhance the job base in rural area, rural communities must have flexibility to created opportunities for business development. And must have the flexibility to retain existing businesses and allow them to expand. He stated the median income in Whatcom County is significantly below the statewide average. Whatcom County needs to adopt a new attitude along the lines of what local government can do to help and encourage existing businesses.

The hearing was closed to the public.

Commissioner Bell moved to recommend approval of the rezone and adoption of the findings as amended. Erickson seconded. Roll call vote: Ayes – Bell, Elenbaas, Erickson, Honcoop, Lesow, Luke, Onkels, Rainey, Teigrob; Nays – 0, Abstain – 0; Absent – 0. The motion carried.

File #PLN2012-00007 - Agricultural Parcel Reconfiguration. Proposed amendments to portions of the Official Whatcom County Zoning (Title 20) and Subdivision (Title 21) Ordinances for categorical changes related to the Parcel Reconfiguration task as recommended in the Ag Strategic Plan File. Changes include: Change to Ag Farmstead Parcel creation, a new Ag Parcel Reconfiguration Tool, Ag Siting Criteria, and Procedurally treating Ag Parcel Reconfigurations similar to Boundary Line Adjustments.

Samya Lutz gave an overview of the memo she submitted to the Commission. At the previous meeting members of the Commission and audience pointed out several wording errors. These have been corrected. Other issues previously discussed were the idea of including Transfer of Development Rights (TDRs) and incorporating other zoning districts into the proposal. Staff recommended these be addressed separately from the reconfiguration discussion so the reconfiguration process isn’t delayed.

Staff gave an overview of comments by Lesa Starkenburg-Kroontje which addressed code reorganization, lot size exemptions, farmstead home site versus farmstead parcel, division for agricultural purposes only.

Staff created a draft application that the property owner would provided if they were interested in the program.
Commissioner Luke asked Larry Stoner for his comments on the issue.

Larry Stoner stated he agreed with Lesa Starkenburg-Kroontje that the various types of boundary line adjustments should be in a separate chapter but it would be too time consuming at this point.

The Commission asked why this needs to be done quickly. Why not take the time to get it done right.

Stoner stated staff already has enough to do and this may be better done during the zoning rewrite. Farmers in the county are already wanting to participate in the program.

Commissioner Lesow stated the fee should be $100 rather than $1200. Regarding TDRs he didn’t think they would ever be created unless they are built into this program. What is the problem with incorporating TDRs into this program?

Mark Personius responded to the TDR issue. Currently the only TDR provisions in the code are tied to Urban Growth Area expansions, with some exceptions. The Agricultural Advisory Committee is in support of the county staff pursuing a TDR program if grant funding were available. Currently the county does not have the budget for it. It would also take a market study and analysis. It would take some time to do that and figure out how and where TDRs would work in the county.

Comissioner Bell showed an example of how farmers give up development rights they may need in the future. This is the same as TDRs so they need to be included in the program.

Mark Personius asked if development should subsidize agriculture? The GMA says it should not. The GMA says development does potential harm to agriculture so that is what needs to be balanced.

Commissioner Honcoop stated that the reality is the laws of economics don’t change. The issue is that lots were illegally created years ago. That has supported agriculture during lean times but now it is driving up the agricultural value of the land but doesn't drive up the farm income of the land.

Commissioner Rainey stated he recently attended an agricultural conference and one of the topics was agricultural land prices. Historically agricultural land is 4 times the annual income. It is being pushed out to 15 to 20 years. Berries are driving the price of the land in Whatcom County.

Mark Personius stated these are the reasons why TDRs are such a good tool here. They serve both means. They can get income for the farmer but keep the housing pressure off of the land.

Commissioner Honcoop stated he was opposed to TDRs. Money isn’t printed by somebody else, it’s earned by somebody else. If a farmer gets a $20,000 TDR transfer that money did not just appear, it had to come from somebody else. The farmers were provided a gift years ago, through regulation, to create additional value for their property. Now they want
to sell that additional value and have somebody else pay for it and get a bonus for it at
someone else's expense.

Mark Personius stated that is why most of those programs are voluntary.

Commissioner Honcoop stated he does not agree with that. The ones he has looked at are
not voluntary. They start out that way but then are legislated.

Commissioner Erickson stated that when he was on the PDR committee they talked about
the land gift farmers were given. Giving a gift if one thing, but taking it away is when you
get a fight. That is really what is being dealt with.

Commissioner Lesow asked if agricultural water rights to residences are addressed under
this program.

Mark Personius said it is not addressed in the proposal. Residences would be subject to
the exempt well regulations.

Henry Bierlink, Whatcom Farm Friends stated he doesn't believe water rights and wells
will be an issue.

**Commissioner Bell moved to break the regulations into 3 categories: farmstead
with house, farmstead without house, boundary line adjustments unrelated to
separation of farmstead, or other logical categories staff deems necessary to
make the regulations easier to read. Lesow seconded. The motion carried.**

Commissioner Elenbaas stated that the Commission needs to keep in mind these rules are
for real people with real dollars on the line, however people should not have to hire a
consultant or lawyer to deal with these rules. The average person should be able to figure
it out.

Commissioner Honcoop asked staff if they agreed with most of the comments made in the
letter by Lesa Starkenburg-Kroontje.

Staff made the following comments.

1) Staff disagrees that they are two separate standards, with or without an existing home.
There is different wording in the code. The code is written with 1 acre as a starting point,
but it also lists the standards and criteria where you can get to three acres. There are two
different sets of criteria based on if there is an existing farmstead home site and if there
isn't.

Commissioner Onkels asked why 3 acres?
Amy Keenan stated that is what is currently in the code.

Regarding Lesa Starkenburg-Kroontje's comments, 3-5, these all refer to 20.40.252(6).
The language is acceptable unless the Commission wants to change the wording regarding
the 40 acres in 4).
Regarding comment 6, staff feels the siting criteria does not only apply to vacant parcels. It also applies to parcels arranged through agricultural parcel reconfiguration, which may not be vacant.

Regarding comment 7, staff agrees with.

Commissioner Lesow referred to a letter from Futurewise which stated: The proposal does not include siting language that considers the characteristics of the surrounding parcels. There is no requirement that the reserve tract be arranged adjacent to existing farmland to ensure contiguous farming uses. Can this language be incorporated?

Samya Lutz stated that if the Commission wants to then they can.

**Commissioner Lesow moved the language be added. The motion failed for lack of a second.**

Commissioner Bell referenced the October 3, 2012 proposed code amendments. The criteria used for siting is not necessarily related to agriculture. It’s related to impervious surface, etc. The farmer may want control of where the structure is sited. The corners may not be the best place for the structure.

Commissioner Teigrob stated she thought the whole point of the reconfiguration was to make sure the farmer could make the best use of his soils. That is assuming that the best soils are not on the corners.

Commissioner Elenbaas does not like the idea of staff telling the farmer what the best use of his land is.

Commissioner Bell stated the siting criteria should be removed.

Commissioner Erickson stated the reason for putting the structure in the corner is for less driveways, etc., but the siting should be left up to the farmer.

Commissioner Luke agreed that the siting criteria is getting too specific, however, the criteria regarding roads, etc. does make sense.

Samya Lutz pointed out that the proposed language does allow the applicant to place the structure where they think is best if 2 of the conditions are met.

Commissioner Lesow asked why meet only 2 of the criteria?

Samya Lutz stated there were 2 conditions that were obvious when a farmland owner chooses the reconfiguration option and that 2 felt fair.

Commissioner Onkels asked if this is a one time opportunity. Are all 6 development rights required at once if the proposal is accepted?
Amy Keenan said no. She also reinforced the fact that this is an optional program.

Commissioner Bell moved to remove the siting criteria from the standards in 20.40.650(2)(c).

Mark Personius asked if Commissioner Bell would accept language to strike: in the corners of the parent property.

Commissioner Bell accepted this suggestion. Honcoop seconded. The motion carried.

Commissioner Honcoop moved to direct staff to incorporate items 2-7 suggested in Lesa Starkenburg-Kroontje's letter and review item 1 for consistency. Elenbaas seconded.

Samya Lutz stated staff disagrees with the statement made in item 6.

The vote on the motion carried.

Commissioner Honcoop addressed the 5 to 1 ratio and its intent.

Amy Keenan stated it is existing code. It only applies to lots that meet the minimum lot size for the agricultural zone, which is 40 acres.

Commissioner Bell addressed the draft application. He asked why there is a 180 day time line on it.

Amy Keenan stated that is the County's response time which is currently in the code.

Commissioner Bell asked the rationale behind it.

Amy stated applications are voluntary and this is not anything new. It used to be the County didn't have a time line on finalizing projects and there are still very old projects out there. Since they have been applied for codes have changed which makes it difficult.

Commissioner Honcoop stated he has issues with the code language in 20.40.252(2)(b). He stated it's very typical that the prime farmland is also the prime building site. He thinks the statement that the maximum for the farmstead parcel shall be no greater than 1.0 acres in size is very difficult to meet because of the area needed for septic, water, etc. He suggested the size be no greater than 3.0 acres in size, rather than 1.0 acres.

Samya Lutz stated a lot can be up to 3 acres as stated elsewhere in the code.

Amy Keenan stated the County does not want applicants to start at 3 acres. They want them to start at 1 acre and work up from there.
RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION
November 15, 2012

Regular Meeting

Commissioner Honcoop asked why not just allow the 3 acres rather than make people prove they need more than 1 acre? That requires a lot more time and money for the applicant and staff.

Mark Personius felt that would lead to the County being accused of converting land to non agricultural uses.

Commissioner Honcoop stated there is still a benefit even if it is 3 acres.

Commissioner Luke questioned if the right to farm act needs to be strengthened.

Commissioner Lesow asked Henry Bierlink if he thought the size should be 1 or 3 acres.

Henry stated that it is an agricultural zone and that should remain the goal. The language is suitably taken care of in the proposal.

Commissioner Bell moved to have staff remove the 1 acre and replace it with a standard that is amenable to size adjustment, with the intent it be as small as possible. The motion was not seconded.

Samya Lutz asked if they wanted the original language reinstated.

Commissioner Bell said yes.

Commissioner Elenbaas moved to have staff come up with some options for an acceptable size taking into consideration properties that have wells versus properties that don’t. Teigrob seconded. The motion carried.

Commissioner Honcoop moved to reinsert the deleted language in 20.40.252(2)(c)(ii) which reads: unless the existing residential structure(s) and/or well and septic constraints require a larger parcel, but shall not exceed three acres. Rainey seconded. The motion carried.

Commissioner Honcoop moved to delete language in 20.40.252(2)(c)(ii) which reads: The maximum size of a farmstead parcel shall not exceed three acres in total area. Rainey seconded. The motion carried.

Commissioner Honcoop 20.40.650(2)(a) moved to reword to read: The two development areas shall contain no more than a total of six lots, and shall be separated by a minimum of 500 feet...The motion was not seconded.

Commissioner Rainey stated the County is making it too easy to develop on agricultural land which is what we don’t want.

Commissioner Luke said she agreed with that but the property owners have the development rights already.
Regular Meeting

November 15, 2012

Commissioner Bell stated he talked to Dave Buys, Vice-Chair of the Agricultural Advisory Committee, who stated he wanted TDRs included in the proposal. He also stated the AAC letter was not something he would sign today.

Samya Lutz stated the Agricultural Advisory Committee had a unanimous vote in favor of it.

Commissioner Bell stated he felt the Agricultural Advisory Committee was under pressure to get this done quickly and put some issues off to another time.

Commissioner Elenbaas said the County is trying to regulate farmland the wrong way. The farmer needs to be thought of and this program is a benefit to them. It may bring in a small amount of development but it can help the farmer by keeping future generations on the land, and having something that is saleable to the bank.

Commissioner Bell moved to ask staff to pursue some form of TDR program to be incorporated into the proposal. Erickson seconded.

Commissioner Honcoop spoke against the motion. He is not in favor of TDRs. If the proposal is to be advanced a good way to kill it is to attach TDRs. If there is no receiving area and no market TDRs are a waste of time.

Commissioner Onkels is not in favor of TDRs.

Commissioner Erickson spoke in favor of the motion. He has seen how farmland can be taken over by development. To make the proposal work it needs TDRs with it.

Commissioner Bell stated at some point work needs to begin on TDRs so now is a good time to start.

Commissioner Elenbaas stated he is concerned about attaching TDRs because he feels they are not the same thing. They need to be separated to do each justice.

Commissioner Lesow feels all the members of the County Council are in favor of TDRs, as are most people in the County and he will not vote them down.

Commissioner Teigrob stated she will not support adding TDRs. It is forcing people to buy something there is no market for.

Commissioner Elenbaas stated that a no vote for this does not mean there is not support for TDRs it just means that if TDRs are good enough they can stand alone.

The motion carried.

Commissioner Rainey asked if PDRs can be looked at in conjunction with TDRs.

The meeting was adjourned at 9:47 p.m.

Minutes prepared by B. Boxx.
WHATCOM COUNTY PLANNING COMMISSION ATTEST:

Michelle Luke, Chair

J.E. "Sam" Ryan, Secretary
Regular Meeting

Call To Order: The meeting was called to order, by Whatcom County Planning
Commission Chair, Michelle Luke, in the Northwest Annex Conference Room at 6:30 p.m.

Roll Call
Present: Michelle Luke, Ben Elenbaas, Rod Erickson, Gary Honcoop, David Onkels, Jeff
Rainey, Mary Beth Teigrob
Absent: Ken Bell, John Lesow

Staff Present: Mark Personius, Samya Lutz, Amy Keenan, Becky Boxx

Department Update
Mark distributed a handout titled Non-Urban Population Growth Monitoring Report which is
a requirement of the County Comprehensive Plan. There is no action required it only
fulfills the Comprehensive Plan requirements and states the County is not having growth
occur that is above the allocated amount.

Update on the Growth Management Hearings Board decision regarding the Rural Element.
Staff anticipates bringing a staff recommendation to the Commission on February 28th and
will hold a public hearing on March 14th.

The County Council appointed a new Commissioner who declined the appointment. The
Council will appoint a new member at their January 29th meeting.

Open Session for Public Comment
There was no public comment.

Commissioner Comments
Commissioner Honcoop would like to see some of the previous minutes, of 2012, on the
PDS website. Staff will put some of the minutes back on the site.

He would also like to see the minutes of the Agricultural Advisory Committee updated.
Staff will work on this issue.

Approval of Minutes of January 10, 2013
Becky made a correction to page 3, line 17 to read: Commissioner Honcoop asked which
LAMIRDs are affected by the invalidity.

Onkels moved to approve as amended. Rainey seconded. The motion carried.

Work Session
File #PLN2012-00007 - Agricultural Parcel Reconfiguration. Proposed amendments to
portions of the Official Whatcom County Zoning (Title 20) and Subdivision (Title 21)
Ordinances for categorical changes related to the Parcel Reconfiguration task as
recommended in the Ag Strategic Plan File. Changes include: Change to Ag Farmstead Parcel creation, a new Ag Parcel Reconfiguration Tool, Ag Siting Criteria, and Procedurally treating Ag Parcel Reconfigurations similar to Boundary Line Adjustments.

Samya and Amy gave a power point presentation which covered:

- The history of the program to date.
  - Approximately a year ago a consultant was hired.
  - A project review team was formed and met numerous times.
  - A focus group, of professionals, met last year.
  - There was an open house in May 2012.
  - A workshop, specific to developing the code, was held in July 2012.
  - The Planning Commission has held 3 work sessions and 1 public hearing.
  - The objective has remained the same with some new options that can be explored.

- Amy reviewed the goal of the program, which is to:
  - Allow farmstead separation prior to having a home built. This would be done for agricultural short subdivisions and for boundary line adjustments.
  - Staff is also looking at having the ability to create 1 to 3 acre lots, out of existing lots of record, on agricultural parcels, in a way that benefits on-going agriculture.
  - Added was an exemption for divisions for agricultural only purposes, which allows the division to be less than 40 acres.

- Based on Planning Commission comments:
  - Staff re-organized the code to make it easier to understand.
  - Staff clarified there will be no deed restriction on parcels that are greater than 40 acres if the agriculture only exemption process is done.
  - Regarding siting criteria staff withdrew language stating development must occur in the corners of the properties per Planning Commission's request.

Amy reviewed the new table staff created in 20.40.251. This table was created in order to make the code easier to understand.

Samya stated, that regarding Ag to Ag Transfer of Development Rights (TDRs), the research staff has done indicates that they cannot be incorporated into this process as it is. The question asked of the Commission was do they want to A) Move Ag Parcel Reconfiguration forward with change to TDR sending area allowing addition of Ag zone. B) Table Ag Parcel Reconfiguration project until more substantive TDR changes can take place. C) Other options.

The Commission asked for some clarification regarding the TDR program being incorporated. Staff stated that because of State laws incorporating them in the way the Commission wants, which is Ag to Ag, would be a substantive process and need to be docked separately. If the TDR program was implemented and the Ag area was designated a sending area then it would be possible. Can Ag to Rural TDRs be done? Staff stated not as part of this parcel reconfiguration process, it is the same issue as Ag to Ag.
Could the Ag zone receiving areas receive development rights from any sending areas or can it only be an Ag receiving area? Staff stated the current code doesn’t address that. Most existing TDR programs address Ag to Urban so more research needs to be done on the issue. Water rights being given in exchange for development rights is an issue that can be explored.

The Commission reviewed a letter from Jack Petree which stated that County is out of compliance with the GMA because the County has Ag land inside of UGAs without a TDR program. Staff stated Mr. Petree was incorrect in his statement because the County has Ag zoned land which is different from Ag designated GMA lands which is what Mr. Petree was referring to.

Commissioner Luke asked if at the meeting with the focus group, last year, was any other method discussed for a farmer to use equity in his land besides the Ag Parcel Reconfiguration?

Vickie Hawley, a member of the Agricultural Advisory Committee, stated that because of the changes in the banking regulations property is easier to loan against if it is separated off.

Staff made the distinction that a separate tax parcel and a separate legal lot of record are two different things.

Commissioner Rainey asked if any members of the Agricultural Advisory Committee would be interested in coming to one of the Planning Commission meetings to state their position on this issue. Vickie Hawley did not know the answer to that.

**Commissioner Honcoop moved to recommend Option C which is to move ahead without the TDR program as part of the Ag Parcel Reconfiguration. Commissioner Elenbaas seconded.**

Commissioner Erickson stated he is okay with the motion but he would still like to see work done on the TDR program and the issue of trading development rights for water rights.

Staff stated the Agricultural Advisory Committee and staff, through a grant, continue working on the TDR issue.

**The vote on the motion carried.**

The Commission reviewed the staff proposals and took the following actions.

20.97 Definitions

Commissioner Honcoop stated the definitions were confusing and suggested wording to clarify. The Commission agreed to change the definitions to read:

20.97.132 Farmstead parcel
The "farmstead parcel" includes that is the legally subdivided portion of the property containing an existing or planned farmstead home site.

20.97.133 Farmstead home site

The "farmstead home site" includes that portion of the farmstead parent parcel used for existing or planned residential buildings, uses accessory to residential buildings, drainfields, wells, wellhead protection area(s), established landscaped areas contiguous with the non-agricultural built area, and structures as allowed in WCC 20.40.252.

Staff will review the new language to ensure it does not cause conflict in other areas of the code.

20.40.250 Division or Modification of Parcels.

Commissioner Luke suggested adding language from page 18 of the Situation Assessment & Recommendations as the current language does not make it clear what is trying to be accomplished.

Staff stated this section does not just apply to Ag Parcel Reconfiguration so changing it is not suggested. They suggested the language Commissioner Luke wishes to add would be more appropriate as findings. Commissioner Luke agreed.

20.40.250(5) Deed Restrictions

Commissioner Honcoop asked for clarity on the language. How can there be surety that a deed restriction is not required? The deed restriction is only attached when a 1 to 3 acre lot, through a boundary line adjustment, is created. Under other corrections there are no deed restrictions. Staff stated that is an issue with the non-conforming code. A lot cannot be made more non-conforming.

20.40.251 Minimum Lot Size.

The Commission agreed to the following changes:

<table>
<thead>
<tr>
<th>Parcel</th>
<th>Minimum Lot Size</th>
<th>Exceptions Minimum Lot Size Exceptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conventional Parcel</td>
<td>40 acres</td>
<td>Reconfiguring existing nonconforming parcels</td>
</tr>
<tr>
<td>Farmstead Parcel – Parent Parcel with Existing Farmstead Home site with public water</td>
<td>1 acres</td>
<td>Up to 3 acres pursuant to WCC 20.40.253 (1),(2) &amp; (4)</td>
</tr>
<tr>
<td>Farmstead Parcel – Parent Parcel with Existing Farmstead Home site without public water</td>
<td>2 acres</td>
<td>Up to 3 acres pursuant to WCC 20.40.253 (1)-(4)</td>
</tr>
<tr>
<td>Farmstead Home site Parcel – Parent Parcel without</td>
<td>1 acre</td>
<td>Up to 2 acres pursuant to WCC 20.40.253 (1) &amp; (2)</td>
</tr>
</tbody>
</table>
Regular Meeting

<table>
<thead>
<tr>
<th>Existing Farmstead Home site with public water</th>
<th>2 acres</th>
<th>Up to 3 acres pursuant to WCC 20.40.253 (1),(2) &amp; (3)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Farmstead Home site parcel - Parcel without Existing Farmstead without public water</td>
<td>1 acre</td>
<td>N/A</td>
</tr>
<tr>
<td>Reconfigured Parcel - reconfiguration with public water</td>
<td>1 acre</td>
<td>Up to 2 acres pursuant to WCC 20.40.253 (1),(2) &amp; (3)</td>
</tr>
<tr>
<td>Reconfigured Parcel - reconfiguration without public water</td>
<td>10 acres</td>
<td>N/A</td>
</tr>
<tr>
<td>Created Parcel with deed restriction for no residential buildings</td>
<td>10 acres</td>
<td>N/A</td>
</tr>
</tbody>
</table>

20.40.253 (3) Farmstead or Reconfigured Parcel Minimum Lot Size Exceptions

Commissioner Honcoop asked what *substantial* means. Who is providing the evidence? Who is making the decisions?

Staff stated the decision maker would be the Health Department based on a well site inspection. Staff has debated how far they ask people to go when approving an ag boundary line adjustment, ag short plat, or ag parcel reconfiguration without an existing home site. It goes back to a well site inspection and review of septic. This is not without risk as water may not be attainable.

**Commissioner Honcoop moved to strike the word *substantial*. Commissioner Elenbaas seconded. The motion failed.

20.40.254(1)(e) Separation of the Farmstead Parcel Criteria

Commissioner Honcoop questioned how a new owner would know there are no building rights on the remainder parcel. Staff stated it is recorded on title so it should show up on a title report.

20.40.254(4)(b)(iv)

Commissioner Elenbaas questioned the word *shall*. What is the basis for making it a requirement? He also stated the bullet points (A) through (F) are not ag related purposes and will not help farmers. This may be an appropriate area to put in Commissioner Luke’s suggested language for 20.40.250 from page 18 of the *Situation Assessment & Recommendation*.

Staff stated this language comes from the Ag Advisory Committee and sub-committees desire for long term viability of ag. This is the area to demonstrate how that is done. *Shall* is stated because it makes it very clear what the criteria is. The GMA makes it very clear.
Commissioner Elenbaas questioned if any of the bulleted requirements were suggested by the farmers.

Staff stated the Ag Advisory Committee discussed them but didn’t know who proposed the language.

Commissioner Honcoop suggested 20.40.254(4)(b)(iv) be reworded to read: Reconfigured lots. The reconfiguration shall result in achieving two (2) or more of the identified agricultural-related purposes as follows:

The Commission agreed to this change.

20.40.650(2)(a) New or Modified Parcel Siting Criteria

Commissioner Luke stated the separation of 500 feet seemed like a waste of land. How was that arrived at?

Staff it is a result of the best practices research. It tries to address visual impacts, as stated in the GMA. The reduction of 10% percent was added as a result of comments heard through the public process.

Commissioner Erickson asked if it would be possible to cluster all the lots in one corner. This would result in less impact from the farming operations.

Staff responded by stating that the number of lots would need to be reduced from 6 to just 4 in one cluster because of the additional requirements of a long plat, which is more than 4 lots. Members stated there would be much less impact if the 6 lots were clustered together.

Commissioner Honcoop asked what the waiting period is between creating short plats through this process.

Staff stated there isn’t one.

Commissioner Honcoop stated this is a loophole that developers will pick up on.

Commissioner Honcoop stated the requirements in 20.40.650 are too restrictive and citizens will not want to go through the process. It is also very contradictory.

Staff stated they are trying to make it as easy as possible by using the term “to the extent possible” where they can and adhering to local and state laws.

Commissioner Honcoop’s opinion was that a farmer knows best where development should be located on their property which is contrary to the siting criteria. 20.40.650(2)(e)

Commissioner Honcoop suggested the following changes:
Residential building sites and access drive shall maintain sufficient separation from on-site and off-site agricultural resources and exterior property lines. The setback, lot coverage, and height standards for reconfigured lots shall be as established in WCC 20.40.350 to 450; and

The Commission agreed to the change. Staff will review how this impacts other sections of the code and come back to the Commission with their findings.

Commissioner Luke asked Mark how TDRs would work in this program.

Mark stated that the Ag Advisory Committee has discussed TDRs. They see lot configuration as helpful to farmers but realizing the risk of doing so my risk their ability to farm. They recognized TDRs as another way to capitalize on the development rights and get them off of their property.

Commissioner Luke asked if there are other areas where a TDR program is working.

Mark stated it works in some communities that have spent a lot of time and effort to make it work. Also there are so many exemptions in the Whatcom County code that it would make it difficult to work here. It could be done here with a lot of research and jurisdictional cooperation.

Commissioner Rainey stated he doesn’t like the Parcel Reconfiguration proposal because he believes it will lead to more development on ag land. He proposed the program be used in Rural zones for a trial period. A lot of the problems with development on the ag lands was pushed by the real estate market and they will be there pushing for development on the reconfigured parcels.

Commissioner Luke questioned if there are any other methods for the lending institutions to let farmers access equity in their land.

Commissioner Elenbaas feels the program will help farmers and their families in the future. He doesn’t understand why there are conflicts with the neighbors of farmers. There is also property owners rights. That has to be in the balance. He is in favor of the program but realizes there will be some negative issues.

Commissioner Erickson stated farmers do farm differently to avoid conflicts with the neighbors.

Commissioner Honcoop related a phone conversation with a citizen who stated that because of the Rural Element the County took away his development rights so why is the County helping farmers keep their development rights? Commissioner Honcoop stated this person had a good point.

Mark stated TDRs would help in situations like this because people can be compensated for their development rights.
Commissioner Honcoop agreed with some of the others that this program will encourage
development, especially if the segregated parcels are put in the corners.

Staff will make the changes the Commission recommended and bring them back for
review at the next meeting on February 14th followed by a public hearing on February
28th.

The meeting was adjourned at 10:50 p.m.

Minutes prepared by B. Boxx.

WHATCOM COUNTY PLANNING COMMISSION ATTEST:

Michelle Luke, Chair  J.E. "Sam" Ryan, Secretary
RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION
February 14, 2013

Regular Meeting

Call To Order: The meeting was called to order, by Whatcom County Planning Commission Chair, Michelle Luke, in the Northwest Annex Conference Room at 6:30 p.m.

Roll Call
Present: Michelle Luke, Ben Elenbaas, Jerry Vekved, Ken Bell, Rod Erickson, David Onkels, Mary Beth Teigrob
Absent: Gary Honcoop, Jeff Rainey

Staff Present: Mark Personius, Any Keenan, Becky Boxx

Department Update
Mark gave the following updates:
- The County Council approved the 2013 docket, which are the Comprehensive Plan and zoning issues PDS will be working on this year.
- Council is reinitiating the Surface Mining Advisory Committee and will create a Forestry Advisory Committee which PDS will be staffing.
- The Specified Fitting rezone has been put on hold while the Rural Element appeal is being worked through.

Open Session for Public Comment
Greg Brown, Whatcom County: Welcomed Gerald Vekved to the Commission.

Commissioner Comments
The Commission welcomed Gerald Vekved to the Commission.

Approval of Minutes of January 24, 2013
Commissioner Teigrob moved to approve the minutes as written. Commissioner Erickson seconded. The motion carried.

Annual Business Meeting

- Election of Chair and Vice-Chair persons
- Review of Business Rules
- Other Concerns/Comments

Election of Chair
Commissioner Onkels nominated Commissioner Luke. Commissioner Elenbaas seconded. There were no other nominations. Commissioner Luke was elected as Chair.

Election of Vice-Chair
Commissioner Bell nominated Commissioner Onkels. Commissioner Teigrob seconded. There were no other nominations. Commissioner Onkels was elected as Vice-Chair.
Regular Meeting

**Review of Business Rules**

There were no changes to the Business Rules. Commissioner Teigrob moved to adopt the 2013 Business Rules. Commissioner Erickson seconded. The motion carried.

**Other Concerns/Comments**

Commissioner Luke asked if anyone had ideas how to move recommendations forward to the Council which would make it clearer to them the Commission’s review and recommendations. The issue is the Council has the same discussions that the Commission has during its review which seems redundant.

Suggested were, to have a Commission member attend each Council meeting or have a Council member attend Commission meetings. No decision was made regarding these suggestions.

Mark stated he would like to have a joint Council/Commission meeting once a year. The Commission agreed to this.

**Work Session**

File #PLN2012-00007 - Agricultural Parcel Reconfiguration. Proposed amendments to portions of the Official Whatcom County Zoning (Title 20) and Subdivision (Title 21) Ordinances for categorical changes related to the Parcel Reconfiguration task as recommended in the Ag Strategic Plan File. Changes include: Change to Ag Farmstead Parcel creation, a new Ag Parcel Reconfiguration Tool, Ag Siting Criteria, and Procedurally treating Ag Parcel Reconfigurations similar to Boundary Line Adjustments.

Amy Keenan reviewed the changes recommended by the Commission at its previous meeting.

Staff and the Commission reviewed the reasons for this proposal which are primarily for financing purposes and to allow for parcel creation in advance of a home being built. The concern of some of the Commission members is that this will allow for more development in the agricultural areas.

The Commission wants to know what the agricultural community thinks of the proposal and encouraged them to attend the public hearing on February 28th.

The “Right to Farm” issue was discussed in regards to the strength of the code. The Agricultural Advisory Committee is working on ways to make it more effective.

The Commission reviewed the staff report and proposed amendments and made the following recommendations and changes:

Staff Report, page 3, second and third bullets are redundant so combine the two. The Commission agreed to the change.
Staff Report, page 3, eighth bullet reword to read: Counties should consider may use of innovative zoning techniques designed to ... Staff will research this recommendation and report back to the Commission.

Staff Report, page 3, ninth bullet reword to read: Agricultural zoning, which limits the density of development and restricts or prohibits nonfarm uses of agricultural land and may allow accessory uses, including nonagricultural accessory uses and activities, that support, promote, or sustain agricultural operations and production; Encourage any nonagricultural uses allowed should to be limited to lands with poor soils or lands otherwise not suitable for agricultural purposes; Staff will research this recommendation and report back to the Commission.

Proposed amendments, page 2, 20.40.010 reword to read: The primary purposes of this district are to implement the agricultural designation of the Comprehensive Plan, established pursuant to RCW 36.70A.170, preserve, enhance and support the production of food and fiber in Whatcom County, to maintain a sufficiently large agricultural land base to ensure a viable agriculture industry and to maintain the economic feasibility of supporting services. Whatcom County supports agricultural activities as the highest priority use in the Agriculture District, with all other uses being subordinate to agricultural activities. Whatcom County seeks to minimize conflict with surrounding zoning districts, in conjunction with Chapter 14.02 WCC, Right to Farm. In order to limit the further fragmentation of the commercial agricultural land base, the Agriculture District includes smaller areas of land with poorer quality soils or nonagricultural uses, which do not meet the definition of agriculture lands of long-term commercial significance. (Move the following to a separate paragraph) A secondary purpose of this district is to serve as a holding district when located within the urban growth area Comprehensive Plan designation to allow agricultural uses in the near term while protecting the area from suburban sprawl and preserving the potential for future urban development consistent with the protection of the resource land. (Ord. 2009-071 § 2 (Exh. B), 2009; Ord. 2005-079 § 1, 2005; Ord. 2001-020 § 1 (Exh. 1 § 1), 2001). The Commission agreed to the changes.

Proposed amendments, page 2, 20.40.250 reword to read: It is the intent of this section to allow divisions which benefit the long-term viability of agriculture. This section describes the requirements for division or modification of parcels within the agricultural district that are either consistent with the minimum lots size or would result in substandard parcels or make existing substandard parcels further substandard. Staff will review the proposed changes and report back to the Commission.

(2) Allowable Density. No divisions, boundary line adjustments, nor agricultural parcel reconfigurations shall result in an increase in allowable density_y

(3) Additional Acreage. Additional acreage gained through a boundary line adjustment or agricultural parcel reconfiguration shall not be considered in the total acreage calculations for determining density_y. The Commission agreed to the changes.

Proposed amendments, page 4, 20.40.252 reword to read: For parcels created consistent with the minimum lot size the: The minimum length to width ratio is five to one 1/5. The
terms "length" and "width" refer to the average length and average width of the parcel. The Commission agreed to the change.

Proposed amendments, page 5, 20.40.254(1)(b) reword to read: 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. The Commission agreed to the change.

Proposed amendments, page 7, 20.40.254(4)(c) reword to read: The responsible official may impose conditions, consistent with Whatcom County Code, on the agricultural parcel reconfiguration to further the purposes of this section. The Commission agreed to the change.

Commissioner Teigrob moved to forward the proposal to the Agricultural Advisory Committee, for their review, and have a public hearing on February 28th. Commissioner Onkels seconded. The motion carried.

The Commission reviewed a map showing potential development rights on agricultural lands.

The meeting was adjourned at 8:30 p.m.

Minutes prepared by B. Boxx.

WHATCOM COUNTY PLANNING COMMISSION ATTEST:

Michelle Luke, Chair

J.E. “Sam” Ryan, Secretary
Call To Order: The meeting was called to order, by Whatcom County Planning Commission Chair, Michelle Luke, in the Northwest Annex Conference Room at 6:30 p.m.

Roll Call
Present: Michelle Luke, Ben Elenbaas, Jerry Vekved, Ken Bell, Rod Erickson, Gary Honcoop, David Onkels, Jeff Rainey, Mary Beth Teigrob
Absent:

Staff Present: Mark Personius, Samya Lutz, Amy Keenan, Becky Boxx

Department Update

Mark gave the following updates:
- The Title 20 review committee has met several times. The last meeting focused on front counter issues and interaction with the public. There was good discussion regarding improvements to the online version of the code and mapping.
- At Council a status report on Lake Whatcom stormwater regulations will be given March 12th, slaughtering facilities will go to committee on March 12th with a possible hearing on March 26th, and establishment of a forestry advisory committee.
- The Agricultural Advisory Committee is continuing to work on consideration of potential rural study area rezones.
- A consultant was chosen for the Comprehensive Plan updates. Berk & Associates will work on population projections, allocations and the EIS.
- Review of topics to come before the Commission in March and April.

Open Session for Public Comment

Carole Perry, Whatcom County: Stated she was at a County Council meeting a few weeks ago in which a former County employee testified that the slaughter house issue was sent to the Planning Commission and got messes up with property rights. She took issue with that. She stated there are three great rights, which are the right to life, the right to liberty, and the right to property.

Wes Kentch, Whatcom County: Has issues with the slaughter house proposal. At the last Council meeting it was amended to limit the number in the County to six. He doesn't think there should be a limit. Government should not set a limit. It should be driven by economics and need. He also stated there should not be a size limit.

Commissioner Comments

Commissioner Bell thinks limiting the number of slaughter houses to six could create a monopoly. Putting a limit on the number could potentially do the opposite of what the County is trying to achieve. He does not think there should be a size limit. The operation should be able to find out what works for them economically.

Commissioner Erickson stated he agrees with the comments made by Wes Kentch. He commented on an article from Capital Press which stated farm acreage had dropped by 3
million acres over the last year. He commented on the God Made a Farmer commercial. The makers of the commercial stated they would donate up to 1 million dollars to the Future Farmers of America based on hits to the website. They had set a time period of one year to meet the goal but it was met in only one week.

Commissioner Onkels commented on slaughter houses. He doesn’t like the stipulation that 50 percent of the product has to come from the County.

Commissioner Elenbaas encouraged staff to look at the size and scale of County agriculture and set forth limits that reflect that.

Approval of Minutes of February 14, 2013

Commissioner Erickson changed those present to read: John Lesew Jerry Vekved.

Commissioner Onkels changed page 3, line 40 to read: No divisions, boundary line adjustments, nor agricultural parcel...

Commissioner Teigrob moved to approve as amended. Commissioner Onkels seconded. The motion carried.

File #PLN2012-00007 - Agricultural Parcel Reconfiguration. Proposed amendments to portions of the Official Whatcom County Zoning (Title 20) and Subdivision (Title 21) Ordinances for categorical changes related to the Parcel Reconfiguration task as recommended in the Ag Strategic Plan File. Changes include: Change to Ag Farmstead Parcel creation, a new Ag Parcel Reconfiguration Tool, Ag Siting Criteria, and Procedurally treating Ag Parcel Reconfigurations similar to Boundary Line Adjustments.

Samya Lutz gave a power point presentation which gave a brief overview of the history of the proposal.

A comment letter was received from Whatcom Farm Friends in support of the proposal, suggesting an increase in the number of ag related purposes be changed from 2 to 4 and to consider strengthening the tracking element.

A comment letter was received from Chuck Antholt supporting the proposal and spoke in favor of the Whatcom Farms Friend’s recommendations.

The hearing was opened to the public.

Henry Bierlink, Whatcom County: Representing Whatcom Farm Friends. He urged the Commission to forward the proposal to the Council with a strong recommendation for it. The agricultural community has been working on the issue for approximately 10 years and would like to see it concluded.

Larry Stoner, Whatcom County: Agreed that the proposal needs to be moved forward. It may not be perfect but it is close. He has clients that are ready to use parcel reconfiguration. They don’t want to promote development, but want to continue farming.
Regular Meeting

They have family members who wish to build. This proposal would allow them to do as they wish.

Carol Perry, Whatcom County: Regarding the open house that was held in May 2012 she couldn’t find anyone who knew that it was taking place. She felt that if the farmers knew what was going on there would be hundreds of them at the meeting.

Kate Blystone, Whatcom County: Representing Futurewise Whatcom. They appreciate the intent of the ordinance but it should be postponed for a while until it can be tied with a Transfer of Development Rights (TDRs) program. As it is the proposal will create small lots that have a greater potential to be developed. Agricultural land should not be near development. She agreed with the suggestions made by Whatcom Farm Friends.

Wes Kentch, Whatcom County: He doesn’t think TDRs will be put into effect in the near future. He thinks they are a good tool but it will take a while to work out the details. He does not want to see the proposal postponed.

The hearing was closed to the public.

Work Session

Commissioner Luke, in looking at the map, questioned if six houses could be placed on any of the parcels.

Staff stated the map gives a very general view of what is out there. It is based on parcel lines, not legal lots of record. It does not take in to consideration environmental issues, etc. If there are contiguous lots, owned by the same party, they could cluster the development and potentially have six houses. Several owners could also work together to do this.

Commissioner Rainey asked the members of the Agricultural Advisory Committee that were present, what they thought about the recommendations of Whatcom Farm Friends.

Wes Kentch stated he didn’t know why the ag related purposes needed to be changed from 2 to 4.

Henry Bierlink stated the reason comes from concerns he has been hearing that there will be a run on development of these parcels. Is there something in the regulations that isn’t being seen that will cause a problem at a later date?

Commissioner Bell asked if anyone has looked out 100 years to examine what the impact of the regulations may be.

Henry Bierlink stated that the Agricultural Strategic Plan looks out 40 years. That is as far as they can see for now.
Commissioner Bell asked Henry if he saw any downside to the proposal. Henry stated no.
Commissioner Bell fears there may be unintended consequences at a later date. When
something is protected there is loss somewhere else.

Commissioner Honcoop stated his concern is there will be significant building opportunities
through this proposal. Over time a majority of the lots will be sold off and won’t be
developed by farmers.

Commissioner Elenbaas does not want to increase the ag related purposes from 2 to 4.
Being able to do the ag parcel reconfiguration enhances the economic viability of
agriculture. The owners have a right to develop. He is not in favor of TDRs but would
probably support them because there should be options for property owners.

Commissioner Rainey agreed with Commissioner Honcoop’s comments. He read from the
staff report which states: Development regulations must assure that the planned use of
lands adjacent to natural resource lands will not interfere with the continued use, in the
accustomed manner and in accordance with best management practices, of these
designated lands (RCW 36.70A.060). A home next to commercial farm will be impacted
and in turn will impact farming. Property rights are important, but with property
ownership comes responsibility.

Commissioner Erickson agreed the Commissioner Honcoop’s and Rainey’s comments.
There needs to be a long term look at the consequences. Development around farms does
change the way they operate.

Commissioner Luke sees this as a business decision for agriculture which she wants to
support. This is a tool that was brought forward by the ag community.

Commissioner Bell stated this is a financing issue that is trying to be fixed with zoning. His
other concern is this may start out as a voluntary program which will eventually become
mandatory.

Commissioner Teigrob agreed it’s a financing problem, but they can’t change that. This
helps farmers work around the financing issues, especially the smaller ones.

Commissioner Onkels stated there is no point in preserving 100, 000 acres of farmland
and putting farmers out of business. The densities already exist in the ag zone. This is a
tool that will allow the property owners to use them, which they should be allowed to do.
He stated he is willing to take the AAC’s word that this is a desirable tool.

Commissioner Rainey asked Commissioner Onkels if he would be willing to increase the
tracking element. Commissioner Onkels stated he is opposed to it.

Commissioner Elenbaas noted that if this proposal was thought of almost 10 years ago
that was before the financial issues came up. Also, there is the assumption that a bigger
farm is better when people are making a living off of smaller farms.
Regular Meeting

Commissioner Honcoop stated he agreed with Commissioner Onkels on the issue of it being a tool brought forward by the AAC, but the point is at what point will it harm farmers rather than help them? The individual farmer has a tendency to harm the industry as a whole which has significantly happened in the past. Regarding the tracking there should be wording tying it to when the ordinance is adopted. What will the review lead to? The proposal doesn’t say.

Commissioner Luke asked how development would be limited under the proposal.

Staff stated that any process would come back through the Planning Commission and Council.

Commissioner Onkels stated the tracking will drive development in a way that would not occur in the absence of the language.

Commissioner Luke asked Henry Bierlink and Wes Kentch what the AAC thought of the tracking. Mr. Kentch stated the AAC did not discuss the tracking issue. Henry stated that Whatcom Farm Friends proposed strengthening the tracking language because they have heard comments regarding the unintended consequences, which could be severe if this proposal is not done right. By tracking there will be a check to make any adjustments if it is not going right.

The commissioners discussed the concept of being good neighbors by limiting activities to certain times, weather conditions, etc. because of the effect it has on development in agricultural areas. Some felt this had to be done anyway because of environmental regulations.

Commissioner Onkels moved to recommend approval of the proposal as presented along with the amendments suggested:

by Commissioner Vekved as follows:

20.80.210: Final lines of modified paragraph to read as follows:...goes through the approval process in WCC 21.03. In no case shall front yard depth be less than 20 feet.

20.80.255 (1) thru (3): Replace entire body of text with the following: Refer to 20.80.210(5)(b) for Agricultural District setback requirements.

Revise modified list item to read as follows:(1) Divisions of land into parcels of less than forty acres but greater than ten acres within the area zoned and designated as Agriculture in the Comprehensive Plan for Whatcom County (~5 lines of text deleted here) proceeding in accordance with 20.40.254(6); and

Amendment to 20.40.250 to read: No further division or residential structure shall be allowed on this parcel until and unless and until changes in the zoning of this property occur consistent with State and local laws which would result in additional development density, in which case this restriction shall be null and void, and
Regular Meeting

density and uses of the new zone shall apply to the property upon review by the
Whatcom County zoning administrator.

The motion was seconded by Commissioner Teigrob.

The Commission felt the motion was confusing as they hadn’t reviewed the proposed
amendments yet. As such they voted down the motion and proceeded to review the
proposed amendments.

Commissioner Bell moved to change 20.40.250(4) to read: No further division or
residential structure shall be allowed on this parcel until and unless and until changes in
the zoning of this property occur consistent with State and local laws which would result in
additional development density, in which case this restriction shall be null and void, and
density and uses of the new zone shall apply to the property upon review by the Whatcom
County zoning administrator. Commissioner Vekved seconded. The motion carried.

Commissioner Bell moved to change 20.80.210(Resource Land Setbacks table) to read:

Minimum front yard requirements can be reduced by the zoning administrator for
agricultural parcel reconfigurations, boundary line adjustments, or farmstead parcels
established under WCC 20.40.252 if the applicant demonstrates better proposed
placement of the structures in relation to will result in a better fit with critical areas or
prime soils and goes through the approval process in WCC 21.03, but in no case shall
front yard depth be less than 20 feet. Commissioner Vekved seconded. The motion
carried.

Commissioner Vekved moved to change 20.80.255(1-3) to read: (1) The 50-foot front
yard setback requirement for new buildings or additions may be waived if the zoning
administrator finds the new building or addition is located along the same building line(s)
of existing structures and will result in no additional encroachment, the public interest,
safety and health are protected; provided, that for a new building the applicant shall also
demonstrate that the proposed location is necessary for the economic viability and the
continued operation of the agricultural use.

(2) The minimum separation between new residences not located on the same property
and farm uses such as barns, pens, milking sheds, or areas used to contain, house or feed
animals or store manure or feed, shall be 300 feet. New farm uses such as barns, pens,
milking sheds, or areas used to contain, house or feed animals or store manure or feed,
shall be situated at least 150 feet from existing residences not located on the same
property. Expansion of existing facilities within the 150 foot buffer, providing such
expansion is not closer to a neighbor’s residence, and pastures are excluded from this
section’s requirements.

(3) Parcels of less than five nominal acres shall have the following minimum setbacks:

Front-Yards:
—Primary arterials and secondary arterials: 45 feet.
—Collector arterials: 35 feet.
Neighborhood collectors, local access streets: 25 feet.

Minor access streets: 20 feet.

Minimum front yard requirements can be reduced by the zoning administrator for agricultural parcel reconfigurations, boundary line adjustments, or farmstead parcels established through WCC 20.40.252 if the applicant demonstrates better placement of the structures in relation to critical areas or prime soils and goes through the approval process in WCC 21.03, but in no case shall be less than 20 feet.

Side Yards: Minimum side yard setbacks shall be 5 feet. For agricultural parcel reconfigurations, boundary line adjustments, or farmstead parcels established through WCC 20.40.252, the exterior side yard and exterior rear yard requirements of habitable structures shall be 30 feet.

Rear Yards: Minimum rear yard setbacks shall be 5 feet. (Ord. 2001-020, § 1 (Exh. I § 2), 2001, Or. 99-080, 1999). Refer to 20.60.210(5)(b) for Agricultural District setback requirements. Commissioner Bell seconded. Staff stated the Title 20 Review Advisory Committee is going to be reviewing this language so it was suggested to leave the language as is because it will be taken care of by the committee. The Commission agreed and voted down the motion.

Commissioner Vekved moved to change 21.01.040(2)(i)(1) to read: Divisions of land into lots or tracts of less than forty acres but greater than ten acres within the area zoned and designated as Agriculture in the Comprehensive Plan for Whatcom County shall be exempt upon determination by Whatcom County Planning and Development Services that:

(f) The purpose of the division is related to the full-time business of agriculture, and

(ii) Each parcel created by the division will facilitate intensive agricultural operations; and

(iii) No parcel created by the division is less than ten acres or 1/64 of a section; and

(iv) The division either reduces or has no effect on available residential density and proceeds in accordance with 20.40.252(6).

Divisions of land into parcels of less than forty acres but greater than ten acres within the area zoned and designated as Agriculture in the Comprehensive Plan for Whatcom County proceeding in accordance with 20.40.254(6). Commissioner Bell seconded. The motion carried.

Commissioner Bell moved to change 20.40.254(4)(b)(iv) to read: The reconfiguration shall result in achieving two- (2) four (4) or more of the identified agricultural-related purposes as follows.: Commissioner Rainey seconded. The motion carried.

Commissioner Honcoop moved to change 20.40.254(4)(d) to read: Parcel reconfigurations will be tracked annually by County Planning and Development Services so the procedure can be adaptively managed. By March 1 of each year, through 2020, the department will publish a report that monitors parcel reconfiguration activity during the previous year and compare that data with residential development in the agricultural zone over the previous...
10 years. If it apparent that parcel reconfiguration activity is inconsistent with previous 
development activity the County shall consider taking action to address the concern, by 
review of all projects passed per this code in year 2017. The motion failed for lack of a 
second.

Commissioner Honcoop moved to change 20.40.254(4)(d) to read: Parcel reconfigurations 
will be tracked annually by County Planning and Development Services so the procedure 
can be adaptively managed through year 2020. The department will publish a report that 
monitors parcel reconfiguration activity during the previous year and compare that data 
with residential development in the agricultural zone over the previous 10 years. By 
review of all projects passed per this code in year 2017. Commissioner Rainey seconded. 
The motion failed.

Commissioner Onkels moved to recommend approval of the proposal as amended and the 
staff recommended findings and conclusions. Commissioner Elenbaas seconded. Roll Call 
Vote: Ayes - Elenbaas, Luke, Onkels, Teigrob, Vekved; Nays - Bell, Erickson, Honcoop, 
Rainey; Abstain - 0; Absent - 0. The motion carried.

The meeting was adjourned at 9:13 p.m.

Minutes prepared by B. Boxx.

WHATCOM COUNTY PLANNING COMMISSION ATTEST:

Michelle Luke, Chair                       J.E. "Sam" Ryan, Secretary
WHATCOM COUNTY
PLANNING & DEVELOPMENT SERVICES
STAFF REPORT

I. BACKGROUND INFORMATION

File #: PLN2012-00007

File Name: Agricultural Strategic Plan Implementation: Parcel Reconfiguration

Applicant: Whatcom County Planning & Development Services

Summary of Request:
Amend the Official Whatcom County Zoning (Title 20) and Subdivision (Title 21) Ordinances to address the Parcel Reconfiguration task as recommended in the Ag Strategic Plan by:

1. Modifying the Agriculture Farmstead division and boundary line adjustment policies to allow for a parcel to be created in advance of a home being built,
2. Creating a new Agricultural Parcel Reconfiguration Tool that is procedurally treated similar to Boundary Line Adjustments, and
3. Adding agricultural siting criteria for new or modified parcels.

The above are reflected in the attached amendments to:
   Chapter 20.40 Agricultural District (AG);
   Chapter 20.80 Supplementary Requirements;
   Chapter 20.83 Nonconforming Uses and Parcels;
   Chapter 20.97 Definitions;
   Chapter 21.01 General Provisions;
   Chapter 21.03 Exempt Land Divisions, Boundary Line Adjustments; and
   Chapter 21.04 Short Subdivisions

Location:
This is a zoning text amendment. All areas within the Agriculture (AG) District would be affected.

Staff Recommendation:
Staff recommends approval of the proposed amendment.

II. ANALYSIS OF THE PROPOSED AMENDMENT

Through Resolution 2009-040, the Whatcom County Council confirmed that 100,000 acres of land available for agricultural use is the minimum goal for ensuring a land base necessary to support a viable agriculture industry in Whatcom County. The Council also endorsed the identified tools and strategies presented by the
Agricultural Land Program Technical Review Committee and the Agricultural Advisory Committee for further development and consideration, requesting that the County Executive authorize County Planning and Development Services staff to work with Council staff and the Agricultural Advisory Committee to develop and recommend appropriate code changes and comprehensive plan amendments enabling implementation of policies to strengthen the protection of agricultural land for agricultural use to include further defining the relationship between protecting agricultural land and critical areas.

Through Resolution 2011-023, the Whatcom County Council endorsed the Whatcom County Agricultural Strategic Plan, developed by the Agricultural Advisory Committee and Planning and Development Services Department Staff. The plan describes "the role Whatcom County Planning and Development Services will play in implementing an agricultural program consistent with County Council Resolution 2009-040 and Comprehensive Plan goals." A short-term priority in the strategic plan is to develop recommendations on parcel reconfiguration to "allow reconfiguration of parcels (within and across ownership) to place the existing development potential in areas that are the least valuable as farm land."

These proposed code changes come forward as a result of Agricultural Advisory Committee recommendations, consistent with Council resolutions 2009-040 and 2011-023, and with the benefit of broad public input.

Proposed zoning amendments must be consistent with applicable provisions of the Growth Management Act. Additionally, pursuant to the Growth Management Act and WCC 20.90.050(4), zoning amendments must be consistent with and implement the Whatcom County Comprehensive Plan. Finally, the staff report must consider environmental implications as identified by the Whatcom County SEPA Official.

A. The amendment conforms to applicable requirements of Growth Management Act (GMA).

GMA Planning Goal (RCW 36.70A.020) 8 is to "Maintain and enhance natural resource-based industries, including productive timber, agricultural, and fisheries industries. Encourage the conservation of productive forest lands and productive agricultural lands, and discourage incompatible uses."

Goal 8 is one of thirteen planning goals to guide the development and adoption of comprehensive plans and development regulations. Because the proposed amendments affect agricultural lands of long term commercial significance, Goal 8 is a driver behind the amendments, though the proposed amendments reflect a balance of these GMA goals; primarily: (2) Reduce sprawl, (6) Property rights, (7) Permits, (8) Natural resource industries, (10) Environment, and (11) Citizen participation and coordination.

The GMA and implementing state administrative rules guide the designation and regulation of resource lands including agricultural lands.
- The County is to designate resource lands consistent with minimum guidelines in chapter 365-190 WAC.

- The County is also required to adopt development regulations that assure the conservation of designated agricultural, forest, and mineral lands of long-term commercial significance (RCW 36.70A.060).

- Natural resource uses have preferred and primary status in designated natural resource lands. Counties and cities must determine if and to what extent other uses will be allowed. If other uses are allowed, counties and cities should consider using innovative land management techniques that minimize land use incompatibilities and most effectively maintain current and future natural resource lands (WAC 365-190-040).

- Regulations for the conservation of natural resource lands may not prohibit uses legally existing on any parcel prior to their adoption (RCW 36.70A.060).

- Development regulations must assure that the planned use of lands adjacent to natural resource lands will not interfere with the continued use, in the accustomed manner and in accordance with best management practices, of these designated lands (RCW 36.70A.060).

- Counties and cities are encouraged to use a coordinated program that includes non-regulatory programs and incentives to supplement development regulations to conserve natural resource lands (WAC 365-196-480).

- Counties may use innovative zoning techniques designed to conserve agricultural lands and encourage the agricultural economy (RCW 36.70A.177). Examples of innovative zoning techniques include:
  
  - Agricultural zoning, which limits the density of development and restricts or prohibits nonfarm uses of agricultural land and may allow accessory uses, including nonagricultural accessory uses and activities, that support, promote, or sustain agricultural operations and production;
  
  - Cluster zoning, which allows new development on one portion of the land, leaving the remainder in agricultural or open space uses;
  
  - Large lot zoning, which establishes as a minimum lot size the amount of land necessary to achieve a successful farming practice;
  
  - Quarter/quarter zoning, which permits one residential dwelling on a one-acre minimum lot for each one-sixteenth of a section of land;
  
  - Sliding scale zoning, which allows the number of lots for single-family residential purposes, with a minimum lot size of one acre, to increase inversely as the size of the total acreage increases; and
The transfer or purchase of development rights from agricultural lands, which can be used through cooperative agreements with cities, or counties with non-municipal urban growth areas, as receiving areas for the use of these development rights.

Innovative zoning techniques are under consideration as part of the subject agricultural parcel reconfiguration proposed amendment. The GMA provides some flexibility for the County to allow landowners to vary from minimum lot sizes, in individual cases, as long as:

- The County provides appropriate standards with reasonable limits that protect the area's character and that conserve agricultural lands;

- The County does not allow the overall pattern of lot sizes and densities to be materially changed, to the detriment of rural character or agricultural conservation; and

- Where appropriate, the County requires compensating areas to be set aside and permanently dedicated to agricultural or open space uses.

B. The amendment is consistent with and implements the Whatcom County Comprehensive Plan.

The following goals and policies from the Comprehensive Plan are most directly relevant to the proposed amendment:

**Goal 8A: Conserve and enhance Whatcom County's agricultural land base for the continued production of food and fiber.**

Policy 8A-4: Discourage conversion of productive agricultural land to incompatible nonagricultural uses.

Policy 8A-6: Prioritize agricultural activity in land use decisions when land is composed of prime and/or productive agricultural soils and agriculture is the highest value resource use.

Policy 8A-7: Establish flexibility in land use plans and regulations to encourage maintenance of the productive agricultural land base.

Policy 8A-12: The Agricultural Advisory Committee shall advise the Whatcom County Executive and Council on agricultural issues and agricultural land use. Whatcom County shall support the Agricultural Advisory Committee with staff and other resources.

**GOAL 8C: Preserve and enhance the cultural heritage that is related to agriculture.**
Policy 8C-1: Find ways for retiring farmers to pass their farms on to their children and for young farmers to be able to afford to buy productive farmland.

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

Policy 8C-3: Involve those who actually are engaged in agricultural activities in the planning process. Utilize groups working effectively with the agricultural community to help preserve and/or create a sustainable economic agricultural base.

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

**GOAL 8D: Reduce land use conflicts between Whatcom County’s agriculture and non-agricultural landowners.**

Policy 8D-1: Work to reduce conflicts between incompatible agricultural activities by establishing zoning regulations which protect productive agricultural lands of long-term commercial significance from conversion to non-compatible uses. This zoning should recognize the diversity of agricultural landowners and agricultural land uses. This zoning should provide flexible regulations, which encourage all agricultural landowners to maintain the productive agricultural land base while protecting them from conflicting uses.

Policy 8D-6: Support agricultural activity in mixed farm/rural residential areas, with the understanding that certain farm practices may conflict with other neighboring rural land uses.

Whatcom County’s Comprehensive Plan Resource Lands Element contains a chapter devoted to Agricultural Lands. The proposed amendments are intended to allow for maximizing available land for farming operations, and minimize impacts of residential development on farm land and farming operations while continuing to allow legal existing uses. The amendments were developed through the recommendations of the County Agricultural Advisory Committee.

The proposed amendments respond to public input from farmers, agricultural land owners, and the public by providing opportunities for smaller lot sizes that may be easier to finance for farming purposes while allowing existing residential development potential in a way that is minimally disruptive to the agricultural activities. They prioritize agricultural activities while providing flexibility and recognizing existing legal lots. They are intended to provide a flexible alternative to larger-lot residential development in a manner that encourages the conservation of the productive agricultural lands.

**C. Consideration of environmental implications as identified by the Whatcom County SEPA Official.**

The SEPA Determination of Nonsignificance was issued on August 23, 2012.
III. PROPOSED FINDINGS OF FACT AND REASONS FOR ACTION

1. The Whatcom County Agricultural Strategic Plan was developed by the county's Agricultural Advisory Committee made up of farmers and farming industry representatives appointed by the Whatcom County Executive and affirmed by the County Council.

2. The Agricultural Strategic Plan was supported by the County Executive and endorsed by the County Council on July 26, 2011 through Resolution 2011-023.

3. The Agricultural Strategic Plan built upon previous work within the agricultural community including the Rural Land Study (2007; endorsed through Council Resolution 2009-040), and an examination of the existing potential residential development within the agricultural areas of the county as described in four White Papers delivered to the WA State Office of Farmland Preservation in January 2009 and posted on the county's Agricultural website since that time.

4. The examination of existing development potential was initiated in 2008 through a stakeholder and public process conducted by Whatcom Farm Friends (county contract number 200711051), wherein tools were identified with the goals of both retiring and accommodating existing development potential in ways that benefit agriculture. Tools that retire existing development potential were identified as options to reduce the overall development potential within the agricultural areas, assisting the farming industry by reducing the potential for uses that may conflict with agricultural activities. Accommodation tools were identified as potential options that assist the farming industry through various incentives that neither reduce nor add density to the agricultural areas.

5. The Agricultural Strategic Plan contains a number of priority tasks, one of which is "Parcel Reconfiguration tool development" which was intended to allow the reconfiguration of parcels within and across ownership, to place the existing development potential in areas that are the least valuable as farm land; accommodating existing development potential in a manner that better fits with the farming operation.

6. A Project Review Team consisting of County staff, Agricultural Advisory Committee (AAC) representatives, and a Whatcom Farm Friends representative met throughout the process with assistance from BERK Consulting to review objectives and draft documents. Meeting dates were: February 15, April 12, May 10, and July 26, 2012. This team continued to meet without the assistance from BERK Consulting as a subcommittee of the AAC.

7. A Determination of Nonsignificance (DNS) was issued under the State Environmental Policy Act (SEPA) on August 23, 2012.
8. The preliminary project plan was posted on the county website on March 6, 2012, updated periodically, with draft alternative code amendments added on March 27, 2012 and subsequently updated.

9. A Focus Group meeting conducted by BERK Consulting was held on March 5, 2012 with nine experts in Whatcom County agricultural land use, development, and financing to brainstorm how parcel reconfiguration could work to allow rearrangements of parcels (within and across ownership) to place the existing development potential in areas that are the least valuable as farmland, in a manner that benefits the County and the landowner and is consistent with other state and local priorities.

10. A Public Open House concerning the project and draft alternatives was held at Cornwall Church on May 3 at 6:30 PM, with notice posted on the County website and sent to citizen, media and other groups on the County’s e-mail list on April 19, 2012.

11. A document entitled “Situation Assessment: Incentives for Commercial Agriculture: Parcel Reconfiguration” (Situation Assessment) identifying the current conditions, parcel reconfiguration objectives, key issues, recommendations, public process, draft code amendments, and analyzing Growth Management Act and Hearings Board cases and other jurisdictional examples was published on May 31, 2012 by BERK Consulting and posted on the County website on June 8, 2012.

12. The Situation Assessment contains a list of principles used to help guide the parcel reconfiguration work program:
   - Increase the long-term viability of agriculture while recognizing underlying economic realities.
   - Provide more flexibility/incentives for homes, placed with the least impact to agricultural operations.
   - Reduce potential conflicts with neighbors.
   - Ensure parcel reconfiguration tools are “density neutral.”
   - Overarching principles should drive the regulations (e.g. equal to or better than...).
   - Honor and protect property rights and values to help farmers stay in business.

13. Notice of the subject amendment was submitted to the Washington State Department of Commerce on June 7, 2012.

14. The Planning Commission held a work session on July 12, 2012 to discuss the Agricultural Strategic Plan, including background information and all priority tasks. Notice was posted on the County website, and was sent to citizen, media and other groups on the County’s e-mail list on June 27 and on July 5, 2012.

15. A Code Development Technical Workshop open to the public was held on July 16, 2012 to further discuss proposed code amendments, with notice posted on the
County website and sent to citizen, media and other groups on the County’s e-mail list on June 27 and on July 10, 2012.

16. The Planning Commission held work sessions on August 9, 2012, November 15, 2012, January 24, 2013, and February 14, 2013, to discuss the Parcel Reconfiguration tool and draft code amendments. Notice of these meetings was posted on the County website, and was sent to citizen, media and other groups on the County’s e-mail list prior to the meetings in accordance with general practices.

17. A Supplemental Analysis and Recommendations document was published on August 31, 2012 to provide updated information following the publication of the “Situation Assessment: Incentives for Commercial Agriculture: Parcel Reconfiguration” prepared by BERK Consulting. The Supplemental Analysis was posted on the County website on September 20, 2012.

18. The Planning Commission held a public hearing on the subject amendment on October 25, 2012. Notice of the Planning Commission hearing was sent to the county email list which includes City representatives from Lynden, Ferndale, Everson, Nooksack and Sumas; citizens; media; and other group representatives on October 4, 2012. Notice of the Planning Commission hearing for the subject amendment was posted on the County website on October 17, 2012. Notice of the Planning Commission hearing for the subject amendment was published in the Bellingham Herald on October 12, 2012.

19. The Planning Commission held a second public hearing on the subject amendment on February 28, 2013. Notice of the Planning Commission hearing was sent to the county email list which includes City representatives from Lynden, Ferndale, Everson, Nooksack and Sumas; citizens; media; and other group representatives on February 20, 2013. Notice of the Planning Commission hearing for the subject amendment was posted on the County website on February 19, 2013. Notice of the Planning Commission hearing for the subject amendment was published in the Bellingham Herald on February 17, 2013.

20. In order to approve the zoning amendment, the County must find that it is consistent with the Growth Management Act (GMA). Additionally, the County must find that the zoning amendment is consistent with and implements the Whatcom County Comprehensive Plan.

21. The GMA (RCW 36.70A.020) lists thirteen planning goals to guide the development and adoption of comprehensive plans and development regulations. The proposed amendments reflect a balance of these planning goals; primarily: (2) Reduce sprawl, (6) Property rights, (7) Permits, (8) Natural resource industries, (10) Environment, and (11) Citizen participation and coordination.

22. The GMA (RCW 36.70A.030) contains a definition for “agricultural land” meaning “land primarily devoted to the commercial production of
horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, finfish in upland hatcheries, or livestock, and that has long-term commercial significance for agricultural production.”

23. The GMA guides the adoption of development regulations to assure the conservation of designated agricultural, forest, and mineral lands of long-term commercial significance. Both the GMA and Washington Administrative Code (WAC) offer specific guidance:

- Development regulations must assure the conservation of agricultural lands (RCW 36.70A.060).

- Natural resource uses have preferred and primary status in designated natural resource lands. Counties and cities must determine if and to what extent other uses will be allowed. If other uses are allowed, counties and cities should consider using innovative land management techniques that minimize land use incompatibilities and most effectively maintain current and future natural resource lands (WAC 365-190-040).

- Regulations for the conservation of natural resource lands may not prohibit uses legally existing on any parcel prior to their adoption (RCW 36.70A.060).

- Development regulations must assure that the planned use of lands adjacent to natural resource lands will not interfere with the continued use, in the accustomed manner and in accordance with best management practices, of these designated lands (RCW 36.70A.060).

- Counties and cities are encouraged to use a coordinated program that includes non-regulatory programs and incentives to supplement development regulations to conserve natural resource lands (WAC 365-196-480).

24. The GMA (RCW 36.70A.177) encourages counties to consider use of innovative zoning techniques designed to conserve agricultural lands and encourage the agricultural economy, and requires accessory uses to be limited according to the section.

25. Consultant attorney review concluded that the GMA provides some flexibility for the County to allow landowners to vary from minimum lot sizes in individual cases, as long as:

- The County provides appropriate standards with reasonable limits that protect rural character (such as siting criteria that are consistent with the County’s definition for “rural character”) and that conserve agricultural lands;
The County does not allow the overall pattern of lot sizes and densities to be materially changed, to the detriment of rural character or agricultural conservation; and

Where appropriate, the County requires compensating areas to be set aside and permanently dedicated to agricultural or open space uses.

26. Whatcom County Comprehensive Plan Goal 8A is to: Conserve and enhance Whatcom County's agricultural land base for the continued production of food and fiber. Additionally, the following policies are relevant to the proposed amendments:

Policy 8A-4: Discourage conversion of productive agricultural land to incompatible nonagricultural uses.

Policy 8A-6: Prioritize agricultural activity in land use decisions when land is composed of prime and/or productive agricultural soils and agriculture is the highest value resource use.

Policy 8A-7: Establish flexibility in land use plans and regulations to encourage maintenance of the productive agricultural land base.

Policy 8A-12: The Agricultural Advisory Committee shall advise the Whatcom County Executive and Council on agricultural issues and agricultural land use. Whatcom County shall support the Agricultural Advisory Committee with staff and other resources.

The proposed amendment developed through the recommendations of the County Agricultural Advisory Committee prioritizes agricultural activities while providing land owner flexibility and recognizing existing legal lots.

27. Whatcom County Comprehensive Plan GOAL 8C is to: Preserve and enhance the cultural heritage that is related to agriculture. Additionally, the following policies are relevant to the proposed amendments:

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

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

Policy 8C-3: Involve those who actually are engaged in agricultural activities in the planning process. Utilize groups working effectively with the agricultural community to help preserve and/or create a sustainable economic agricultural base.

Policy 8C-4: Support the continuation of owner occupied/family owned farms.
The proposed amendment responds to public input from farmers, agricultural land owners, and the public by providing opportunities for smaller lot sizes that may be easier to finance for farming purposes while allowing existing residential development potential in a way that is minimally disruptive to the agricultural activities.

28. Whatcom County Comprehensive Plan GOAL 8D is to: **Reduce land use conflicts between Whatcom County's agriculture and non-agricultural landowners.** Additionally, the following policies are relevant to the proposed amendments:

Policy 8D-1: Work to reduce conflicts between incompatible agricultural activities by establishing zoning regulations which protect productive agricultural lands of long-term commercial significance from conversion to non-compatible uses. This zoning should recognize the diversity of agricultural landowners and agricultural land uses. This zoning should provide flexible regulations, which encourage all agricultural landowners to maintain the productive agricultural land base while protecting them from conflicting uses.

Policy 8D-6: Support agricultural activity in mixed farm/rural residential areas, with the understanding that certain farm practices may conflict with other neighboring rural land uses.

The proposed amendment provides a flexible alternative to larger-lot residential development in a manner that encourages the conservation of the productive agricultural lands.

**IV. PROPOSED CONCLUSIONS**

1. The subject zoning amendment complies with the Growth Management Act.

2. The subject zoning amendment is consistent and implements the Whatcom County Comprehensive Plan.

**V. RECOMMENDATION**

Based upon the above findings and conclusions, staff recommends approval of the proposed amendments as shown on Exhibit 1.
ADDITIONAL BACKGROUND INFORMATION AVAILABLE IN COUNCIL OFFICE

FILE #AB2013-128
CALL TO ORDER

Council Chair Kathy Kershner called the meeting to order at 11:40 a.m. in the Council Conference Room, 311 Grand Avenue, Bellingham, Washington.

ROLL CALL

Present: Barbara Brenner, Sam Crawford, Kathy Kershner, Bill Knutzen, Ken Mann, Pete Kremen and Carl Weimer

Absent: None

Attorneys also present: None

1. STRATEGY PLANNING DISCUSSION AND POSITIONS TO BE TAKEN REGARDING COLLECTIVE BARGAINING (AB2013-018)

Kershner stated that discussion of agenda item one may take place in executive session pursuant to RCW42.30.140(4) (a). Executive session will conclude no later than 1:00 p.m. If the meeting extends beyond the stated conclusion time, she will step out of the meeting to make a public announcement.

Brenner moved to go into executive session until no later than 1:00 p.m. to discuss the agenda item, pursuant to RCW citations as announced by the Council Chair.

The motion carried by the following vote:

Ayes: Brenner, Crawford, Kershner, Knutzen, Mann, Kremen and Weimer (7)
Nays: None (0)

Kershner announced at 1:00 p.m. that discussion will extend until no later than 1:15 p.m.

OTHER BUSINESS

ADJOURN

The meeting adjourned at 1:12 p.m.

The Council approved these minutes on ______________, 2013.

ATTEST: WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON
DISCLAIMER: This document is a draft and is provided as a courtesy. This document is not to be considered as the final minutes. All information contained herein is subject to change upon further review and approval by the Whatcom County Council.

1 Dana Brown-Davis, Council Clerk  Kathy Kershner, Council Chair

Jill Nixon, Minutes Transcription
WHATCOM COUNTY COUNCIL  
Regular County Council  

March 12, 2013  

CALL TO ORDER  

Council Chair Kathy Kershner called the meeting to order at 6:00 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.  

ROLL CALL  

Present: Barbara Brenner, Ken Mann, Sam Crawford, Bill Knutzen, Kathy Kershner, Carl Weimer and Pete Kremen.  

Absent: None.  

FLAG SALUTE  

ANNOUNCEMENTS  

Kershner announced there was a strategy planning discussion and positions to be taken regarding collective bargaining (AB2013-018) in executive session during the Special Committee of the Whole meeting.  

MINUTES CONSENT  

Brenner moved to approve the Minutes Consent items, including the substitute page.  

The motion carried by the following vote:  

Ayes: Kremen, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)  

Nays: None (0)  

1. SPECIAL COMMITTEE OF THE WHOLE FOR JANUARY 15, 2013 (12:30 P.M.)  

2. BOARD OF HEALTH FOR FEBRUARY 5, 2013  

3. SPECIAL COMMITTEE OF THE WHOLE FOR FEBRUARY 12, 2013 (1:30 P.M.)  

4. REGULAR COUNTY COUNCIL FOR FEBRUARY 12, 2013  

5. SURFACE WATER WORK SESSION FOR FEBRUARY 19, 2013  

6. SPECIAL COMMITTEE OF THE WHOLE FOR FEBRUARY 26, 2013  

7. COMMITTEE OF THE WHOLE FOR FEBRUARY 26, 2013
8. REGULAR COUNTY COUNCIL FOR FEBRUARY 26, 2013

Crawford moved to adjust the agenda so all items except the public hearing be addressed before the public hearing.

The motion carried by the following vote:
Ayes: Kremen, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)
Nays: None (0)

OPEN SESSION

The following people spoke:
- Larry Helm spoke about reserve funds and increased property taxes.
- Hugh Beattie spoke on invasive species from float planes that land on Lake Whatcom.
- Greg Brown spoke about renaming the proposed slaughterhouse ordinance.
- Bob Burr spoke about the proposed site for the new jail.
- Shane Roth spoke about the proposed slaughterhouse ordinance.
- Riley Sweeney spoke about the proposed new jail.
- Delaine Clizbe spoke about the South Side Metropolitan Park District.
- Joy Gilfillan spoke about the proposed new jail.
- Matthew Goggins spoke about float planes on Lake Whatcom.

Brenner asked if the float planes are cleaned before they land on Lake Whatcom. Goggins stated they would have to ask the staff.

CONSENT AGENDA

Mann reported for the Finance and Administrative Services Committee and moved to approve Consent Agenda items one and two.

The motion carried by the following vote:
Ayes: Kremen, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)
Nays: None (0)

1. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A GRANT AGREEMENT BETWEEN WHATCOM COUNTY AND THE EXECUTIVE OFFICE OF THE PRESIDENT OFFICE OF NATIONAL DRUG CONTROL POLICY FUNDING FOR PROSECUTING ATTORNEY’S OFFICE PERSONNEL AND SOFTWARE MAINTENANCE IN THE AMOUNT OF $84,035 (AB2013-103)

2. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A PARK USE AGREEMENT BETWEEN WHATCOM COUNTY PARKS AND RECREATION AND THE BELLINGHAM HIGHLAND GAMES ASSOCIATION FOR THE USE OF HOVANDER HOMESTEAD PARK IN THE ANNUAL AMOUNT OF $4,980 (AB2013-104)
INTRODUCTION ITEMS

Kershner stated item five was withdrawn from the agenda.

Crawford moved to accept Introduction Items one through four.

The motion carried by the following vote:
Ayes: Kremen, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)
Nays: None (0)

1. ORDINANCE AMENDING THE 2013 WHATCOM COUNTY BUDGET, FOURTH REQUEST, IN THE AMOUNT OF $51,410 (AB2013-105)

2. ORDINANCE ESTABLISHING SPEED LIMITS ON CERTAIN COUNTY ROADS (AB2013-106)

3. RESOLUTION REGARDING COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING FOR NEW OR EXPANDED DIRECT SERVICES TO PERSONS WITH LOW AND MODERATE INCOMES IN ISLAND, SAN JUAN AND WHATCOM COUNTIES WITH THE OPPORTUNITY COUNCIL AS SUBRECIPIENT AND WHATCOM COUNTY AS LEAD AGENCY (AB2013-107)

4. ORDINANCE ESTABLISHING THE WHATCOM COUNTY FORESTRY ADVISORY COMMITTEE (AB2013-098)

5. ORDINANCE AMENDING THE WHATCOM COUNTY CODE TO ALLOW AGRICULTURAL SLAUGHTERING FACILITIES IN THE AGRICULTURE ZONING DISTRICT (AB2012-300A)

OTHER BUSINESS

Kershner stated the Council must appoint one or more councilmembers to represent the Council during four informal meetings to discuss growth planning and urban growth area review. The meetings will be held around the County. The first meeting is scheduled on March 19 in Lynden. The second meeting is June 5 in Blaine. The third meeting is September 3 in Ferndale. The fourth meeting is December 3 here at the County Courthouse.

Sam Crawford volunteered to attend.

Kershner asked that the Clerk resend the e-mail to the councilmembers.

REPORTS AND OTHER ITEMS FROM COUNCILMEMBERS

Kremen stated he and the County Executive accomplished many substantive things during their recent trip to Washington D.C. He will give a fuller report at a Council meeting in two weeks.
PUBLIC HEARING

1. RESOLUTION REQUESTING THE RECONVEYANCE OF APPROXIMATELY 8,844 ACRES OF STATE FOREST LAND MANAGED BY THE DEPARTMENT OF NATURAL RESOURCES TO WHATCOM COUNTY FOR PUBLIC PARK PURPOSES (AB2012-066C)

Michael McFarlane, Parks and Recreation Department Director, gave a staff report on the history, purpose, and process of the reconveyance. He described proposed activities that the County would develop on the land and proposed revenue and expenditures attached to the park.

Mann asked the Department of Natural Resources (DNR) Board of Natural Resources’ process for responding if the Council approves the resolution tonight. McFarlane stated the Board’s staff will review the County’s proposal for consistency with the Statewide Outdoor Comprehensive Plan, which he’s already seen. The State staff will also review for consistency with the Whatcom County Parks and Recreation Open Space Plan and confirm the lands are proper trust lands. If consistent with all those items, the Board will approve the reconveyance.

Mann asked if all these folks won’t have to testify again before the Board of Natural Resources. McFarlane stated the Revised Code of Washington (RCW) says that the Board will convey as long as it meets those items. The Board already reviewed and approved the parcels, real estate transactions, and value-for-value exchange.

Knutzen asked if the cost estimate of the trail development is $500,000 for 55 miles of trails. McFarlane stated the cost estimate was a range based on per mile of trail. A trail could be level, use existing roads and trails at a lower cost, or could be more expensive due to new trail development or development over buffer zones. The total cost is determined when they get into the actual park plan and trail design. It’s very difficult to apply a cost per mile of trail, and expect it to remain the same across the board. The range was $5,000 to $15,000 per mile. If contracted, the cost is $15,000 to $50,000 per mile or more. Using volunteers or force accounts, the cost could be zero to $5,000 per mile. Most trails the County builds are through volunteers or force accounts, which are the in-house staff. It reduces the cost on a per mile basis. They’re built over a long period of time, as grants, donations, and partners step forward. They could hire a professional trail builder, the Washington Trails Association, or another organization that does this. There would be a wide range of costs based on construction and permitting. Crossing bodies of water and buffer zones require mitigation and engineering costs. At this stage, he tries to provide a range of costs based on experience with other projects.

Knutzen stated the DNR estimate was $180,000 per mile for trails through steep, unstable slopes. That’s what most of this area is. McFarlane stated that estimate is within the range of trail costs, if the trail includes a bridge or goes through critical areas. He tried to give an average cost of all the 55 miles of trails, knowing there are nine miles of roads that will probably not be used to any great degree. They can be converted to a trail. They already have a base, are level, and have drainage. Making nine miles of trails from them is very inexpensive. The State gave an estimate of $180,000, but also indicated they could
build trails for much less or much more if bridges are required. A detailed design would have to be done to get a decent estimate. Trail projects are generally done piece-by-piece. They all agree that some trail sections are very expensive, and other sections are very inexpensive. It all depends on where the trails are developed.

Kershner opened the public hearing, and the following people spoke:

Jack Weiss, Bellingham City Council Member, stated the City Council has supported the reconveyance since 2008. The City Council sent letters to the DNR and the County Council supporting the reconveyance. The City Council reaffirmed its support last night. Personally, he supports the resolution and reconveyance.

Max Perry spoke on the timber industry and against the reconveyance. Put it on the ballot.

Marc Perry spoke about the timber industry and against the reconveyance.

Ted Wood spoke against the reconveyance.

Chet Dow spoke against the reconveyance and about the amount of existing County parkland.

Nick Saling spoke in favor of the reconveyance and about land stewardship.

Carole Jacobson spoke in favor of the reconveyance and about water quality.

Matt Christman spoke in favor of the reconveyance, about opportunities for recreation, and the effects of logging on sensitive lands.

Pinky Vargas spoke in favor of the reconveyance and about water quality.

Shane Roth spoke in favor of the reconveyance and about councilmembers representing all constituents.

Bill Hinely spoke in favor of the reconveyance and about protecting natural resources.

Jay Saxton spoke in favor of the reconveyance.

Paul Orlowski spoke in favor of the reconveyance and about recreational opportunities.

Jakob Perry spoke about motorized recreation.

Steve Irving spoke in favor of the reconveyance.

Kristina Coyne-McHugh spoke in favor of the reconveyance.

Casey McHugh spoke in favor of the reconveyance and about water quality and recreation.
Kelsey Taylor spoke in favor of the reconveyance.

Lawrence Quinlivan spoke against the reconveyance and about roads and costs. Put it on the ballot.

Alan Fritzberg spoke in favor of the reconveyance and about the timber industry.

Colin Tobin spoke in favor of the reconveyance and about local control.

Aubrey Stargell spoke against the reconveyance and stated put it on the ballot.

Melodie Kirk spoke against the reconveyance and about the amount of parkland, and stated put it on the ballot.

David Wallin spoke in favor of the reconveyance and about timber harvesting.

John Kirk spoke against the reconveyance and about Land Trust management, and stated put it on the ballot.

Rodd Pemble spoke in favor of the reconveyance and about recreation.

Abe Jacobson spoke in favor of the reconveyance.

Mitch Freeman spoke in favor of the reconveyance.

Karl Uppiano spoke against the reconveyance and about the State Department of Natural Resources (DNR) managing recreation, and stated put it on the ballot.

Dick Whitmore spoke against the reconveyance and about the timber industry.

Peggy Uppiano spoke against the reconveyance and stated put it on the ballot.

Robin Dexter spoke in favor of the reconveyance.

Liz Vennos spoke in favor of the reconveyance.

Klaus Klix spoke against the reconveyance and stated put it on the ballot.

Daniel Probst spoke in favor of the reconveyance.

Dan McShane spoke in favor of the reconveyance and about the landscape plan.

Aaron Fitts spoke in favor of the reconveyance.

Eileen Turk spoke in favor of the reconveyance.

Julia Labadie spoke in favor of the reconveyance.

Suzanne Lundberg spoke in favor of the reconveyance.
Steve Hensen spoke in favor of the reconveyance and about economic development.

John Viechnicui spoke in favor of the reconveyance and about trail systems.

Greg Brown spoke against the reconveyance and stated put it on the ballot.

Tom Westergreen spoke against the reconveyance and spoke about the timber industry.

Laurence Brown, Sudden Valley Board, spoke in favor of the reconveyance and about water quality and flooding.

Delaine Clizbe spoke against the reconveyance, about park planning and the Land Trust, and stated it put it on the ballot.

Jacob Lesser spoke in favor of the reconveyance and about water quality.

Bob Burr spoke in favor of the reconveyance.

Karen Brown spoke against the reconveyance and stated put it on the ballot.

Sharon Westergreen spoke against the reconveyance and about cost to the County.

J. Riley Sweeney spoke in favor of the reconveyance.

Wes Kentch spoke against the reconveyance and about increasing taxes.

Krista Kirk spoke against the reconveyance and stated put it on the ballot.

Jordon Westerholm spoke in favor of the reconveyance and about water quality.

Jackie Pettit spoke in favor of the reconveyance.

Linda Rae Gardner spoke against the reconveyance and about new taxes, and stated put it on the ballot.

Mel Monkelis spoke in favor of the reconveyance.

Todd Citron spoke in favor of the reconveyance and about water quality.

Jeff Margolis spoke in favor of the reconveyance and about water quality.

Mathew Dunn spoke in favor of the reconveyance and about economic development.

Scott Hackett, Whatcom County-Pomona Grange, spoke against the reconveyance.

Phil Morgan spoke against the reconveyance and about tax increases.

Hue Beatty spoke in favor of the reconveyance.
Rand Jack spoke in favor of the reconveyance.

Eric Brown spoke in favor of the reconveyance and about local control and recreation.

Mike Gleeson spoke against the reconveyance and stated put it on the ballot.

Arlen Bogaards spoke in favor of the reconveyance and about recreation.

Barbara Christensen spoke in favor of the reconveyance.

Lorraine Newman spoke against the reconveyance and about the costs of a park.

Kris Halterman spoke against the reconveyance.

Larry Helm spoke against the reconveyance and about compliance with the Growth Management Act (GMA) and water quality.

Linda Morelle spoke against the reconveyance and stated put it on the ballot.

Tom Fenton spoke against the reconveyance and about water quality.

Joy Gilfilen spoke in favor of the reconveyance and about water quality.

John LaMonte spoke against the reconveyance.

Doug Campbell spoke against the reconveyance.

Jasmine Minbashian spoke in favor of the reconveyance.

Noah Crozier spoke in favor of the reconveyance.

Mathew Goggins spoke against the reconveyance.

Maggie Matheson-Hanson spoke in favor of the reconveyance.

Carole Perry spoke against the reconveyance.

Rudd Brown spoke in favor of the reconveyance and about economic development.

(9:34:17 p.m.)

Hearing no one else, Kershner closed the public hearing.

Kershner stated the total number of people who signed the public hearing sign-in form but didn’t speak included 57 people in favor of the reconveyance and seven people against the conveyance.

*Kremen moved* to approve the resolution.
Knutzen moved to put this on the ballot. He asked for that six months ago. If the Council approved his request then, they would not be having this conversation now. They heard that people wanted it to go on the ballot. The City of Bellingham voted on whether they wanted to finance a 90-acre park. This Council is asking the residents of Whatcom County on their opinion on 8,800 acres. He hopes the Council would give the citizens that same right. Let the voters decide.

Mann stated he is against putting the issue on the ballot. The Councilmembers are elected to study these issues and make hard decisions. They are not paid to just vote unanimously on easy decisions. He doesn’t like punting the controversial decisions. In general, it seems that councilmembers inevitably ask for more studies or a vote of the people when they are about to lose a vote. They should do their job, explain their votes, and vote now, as they were elected to do.

Brenner stated she disagrees with Councilmember Mann, who voted in favor of putting the Salary Commission question on the ballot because he didn’t want to approve it.

Mann stated it was required by the Charter to be on the ballot.

Brenner stated it wasn’t required to be on the ballot if the Council didn’t create the commission. Those are hard decisions. They are elected to make hard decisions. They have also taken advisory votes from the public on things that could be very costly. The Council never got the information it wanted. They got information that keeps changing. Her main interest is water quality. She said she would support the reconveyance if someone could show her evidence that water quality would be significantly improved. She’s not beholden to any special interest. The Council has the right to ask the public what it thinks. It’s just as credible. They’ve done it in the past, especially on park-related issues.

Kremen withdraw his motion to allow the Council to consider Councilmember Knutzen’s motion and vote whether or not the Council should send this motion to the voters. That said, he adamantly opposes the motion to send it to the voters. He agrees with Councilmember Mann. Councilmembers are elected to make tough decisions. Both Councilmember Crawford and he were public and consistent about their support of the reconveyance during their last campaigns for Council.

Crawford stated he is against the motion to put the question on the ballot. He would only put on the ballot a property tax increase or a Charter amendment. He won’t punt on any decision here. The voters unfortunately can’t decide this issue. Only the Council can decide. Any ballot vote would be advisory. It would still be up to the County Council, which would not be bound by the election result.

Kershner stated she supports putting the question on the ballot. The community has become extremely divided, and has had a difficult time getting information and feeling heard. If it’s on the ballot, the campaign can occur publicly. Supporters and non-supporters both can campaign for it and convince their neighbors. The Council would get an advisory vote of the people. However, she’s not afraid to make the tough decision and will do so tonight if this fails. She supports allowing the people to give the Council advice.
Weimer stated he’s against the motion to put the question on the ballot. They’ve heard about this for more than six years. They’ve heard the information repeatedly. All the elected bodies with any authority over water quality and land use in the watershed have voted in favor of this, including the Bellingham City Council, the Lake Whatcom Water and Sewer District, and Sudden Valley Board. They all represent the people, and have all spoken. The Council needs to make this decision.

Knutzen stated a number of other bodies have weighed in with the opposite view, including the Agricultural Advisory Committee, the Cattleman’s Association, and a number of other entities. The letter from Sudden Valley thinks the reconveyance is good as long as it’s low-impact and non-intrusive.

The motion failed by the following vote:

Ayes:  Brenner, Knutzen, and Kershner (3)

Nays:  Kremen, Crawford, Weimer, and Mann (4)

Kremen moved to approve the resolution.

Knutzen stated they heard promises that there was nothing to be concerned about regarding ownership or subcontracting the management to another entity. He moved to add language to the resolution, “Now, therefore, be it resolved that Whatcom County intends to fully manage all aspects of the property and retain all resources and rights of ownership exclusively, including mineral and timber rights and any conservation easements, unless the property is conveyed back to the Department of Natural Resources.” The Whatcom County administration would handle all aspects of ownership.

Weimer asked if the Parks Department or legal counsel has reviewed the language.

Knutzen stated he contacted legal counsel about the amendment.

Mann asked if Councilmember Knutzen discussed the amendment with the DNR.

Knutzen stated he has not.

Kremen asked what is the intent of the motion.

Knutzen stated he would like to make sure the management of the property is done by Whatcom County rather than another organization.

Kremen stated he concurs with the intent of the motion. His concern is that the resolution has been reviewed by the DNR, and that any changes or modifications may jeopardize DNR’s approval of the reconveyance. He asked if the language in the motion would jeopardize the DNR’s approval. He doesn’t want to approve any changes that would cause the DNR to vote against or not approve the reconveyance.

McFarlane stated the DNR retained or reserved the mineral and gas rights for the benefit of the State on a number of transfers the County received from the State. He’s not aware those would need to be transferred to use it for park purposes and the State may retain those, under the reconveyance. Whether or not they could transfer the mineral and
gas rights is a question. The only thing the County can reserve for itself is whatever rights or interests it receives in the property.

Kershner asked if the Council could add language such as “unless specifically reserved by the State.” McFarlane stated he believes they can. The County will get title only for what the State conveys to the County.

Kershner stated the intent of the motion, which they want to make clear, is that the County is not transferring any rights or conservation easements or management of the land to any other organization or entity, other than Whatcom County.

Royce Buckingham, Prosecutor’s Office, stated putting the Council’s intent into a resolution doesn’t legally bind other people. The resolution doesn’t have force of law. It’s just a policy statement.

Crawford stated nothing about that binds any future Council from taking any action it wants. Buckingham stated that’s correct. He told that to Councilmember Knutzen. The actions they take tonight can be undone by future councils.

Crawford stated he agrees with Councilmember Kremen and the intent. Rand Jack emailed a proposal to the Parks Director a few years ago. The proposal was produced through a public disclosure request. The whole community seems to be conveying that this will all fall under the Land Trust. His experience with the Land Trust has generally been positive. However, the Land Trust partially or completely brokered other deals, such as the Olsen property, in which a condition of the deal was that the Land Trust receive a conservation easement. In this particular case, the County has spent the last three months thoroughly reviewing the future of this park in terms of parks management, forestry management, and financing. It would be simplistic for the County to assume that a conservation easement in the hands of the Land Trust would be appropriate. He won’t support that at this time. There may be portions of this about which he would like to keep an open mind and understand the benefits of conservation easements and why the Land Trust loves to have those easements bind the County. He will keep an open mind that a conservation easement may have some public benefit to consider. He’s not sure what that is now. Resolving to never put a third-party conservation easement on the land would not accomplish anything. If approved, he would like to be involved in creating the forestry management plan.

Mann stated he does not oppose the intent, but is reluctant to change any part of the resolution. If changed, the resolution would go back to the DNR and evaluate everything for technicalities and make sure it’s correct. Knowing the DNR already vetted the resolution, he’s reluctant to change any part of it now.

Also, it’s been frustrating having to listen to testimony that somehow the Whatcom Land Trust is getting rich off the reconveyance. That’s preposterous. He does not intend to give this land over to any non-governmental organization (NGO). That’s not part of this proposal. If it ever comes to him, he would vote against it. They could pass another resolution saying so. He won’t mess with the legal technicalities from DNR. Stick with the document as written and start to work on a plan.
Knutzen stated he’s hearing a lot of shallow excuses from councilmembers who earlier stated they were concerned about this, asked the Land Trust, and heard from the Land Trust that it has no intent of doing this, even though it submitted the letter to the Parks Director. This is the responsible thing to do if they are concerned about another entity running this property. Some of the councilmembers saying they are against it are the same ones who asked the question and assured him this would never be an issue as long as they were on the Council. Now they’re stating that they don’t want to do this. He’s confused about why this would be controversial if they are serious about not letting another entity run the parks besides the Parks Department.

Weimer stated he is against the motion to amend. He’s not sure he has any problems with the language. His main concern is that this was already crafted by staff and the DNR. He doesn’t know the repercussions of a change. He doesn’t want to sit here a month from now having another hearing because they have to change the wording one more time. The reality is that in the past six years, the idea of conservation easements has come up a couple of times. The City of Bellingham mentioned at one point a conservation easement for which they may be willing to pay the County, as a way to fund the park. None of those things got any serious traction. He never remembers any discussion of giving over management to anyone else. He doesn’t have a big concern. If they want to address it, the time would be after the reconveyance, when they start developing the park plan.

Kremen stated this issue came up a couple of years ago, when he was County Executive. When the Land Trust proposal came to his attention, he firmly decided that the reconveyance and its destiny would be controlled by Whatcom County. That’s his position now.

(10:04:32 p.m.)

Brenner stated she doesn’t want to make light of the good work the Whatcom Land Trust has done. She’s voted twice for them to help the County with management. Once, the Land Trust said the park would have public access so the Council voted for it, but it didn’t have public access. It cost the County a lot of money to get public access. Another time she voted for the Land Trust to manage a property that was supposed to have public access, but the neighbors said there was only Land Trust access. There are reasons people may want the County to be totally in charge of something, rather than any other entity. The County must make sure it’s in charge of every decision if this passes.

Knutzen stated if DNR has ever seen this resolution, which is from the Parks Department. McFarlane stated this resolution was written in collaboration with DNR staff in Olympia to ensure consistency with their requirements. It is a Council resolution, written with the input from that staff who will be reviewing it.

Kremen stated the motion is well-intended, but he will oppose it. Be consistent and pass the resolution as it was written jointly by the DNR and Whatcom County.

Kershner stated she has no intention of ever voting to give any conservation easement to any outside group. She is interested in looking more at the project done in Anacortes, where the City is selling its own conservation easements to its own citizens, and raising a pot of money to be used for maintenance and other things. Whatcom County can do that. The citizens can take care of this park and other parks and projects.
The motion to amend failed by the following vote:

**Ayes:** Brenner, Knutzen, and Kershner (3)

**Nays:** Kremen, Crawford, Weimer, and Mann (4)

Knutzen stated he is against the resolution. Parks Department projects usually have incorrect, low project estimates. The Lake Samish dock is such an example. It seems like they purposely made the reconveyance sound like it will be something it won’t be.

They heard the purpose is for water quality and for recreation opportunities. He asked the Department of Ecology if it will fix water quality, and was told it will not. He would love to hear it if someone knows something different. If the County no longer needs to consider the Department of Ecology’s opinion on water quality, he questions why the County has to pay attention to the total maximum daily load (TMDL) and other issues.

The recreation opportunities exist now, and the DNR is more than willing to work with the County on some of these things. The County hasn’t made any effort to take advantage of that. The DNR would have reopened the north fork if recreation was important enough for the County to contribute funding.

The County will lose revenue, and the County will have expenses for maintenance. The numbers they are hearing are contrary to what really will happen. He won’t support the reconveyance.

Crawford stated there is no proposal to raise taxes for this. The County received a letter from Hart Hodges and other economists who evaluated this. They predict a positive benefit for the County government and the local economy.

The DNR has to go through a big public process. Their desire to create a recreational amenity in Whatcom County is due to lobbying of the off-road users group. The Council will hear a lot about that this summer.

Someone tonight referenced the Crawford proposal. He reviewed the maps and hazardous area last year on behalf of the timber community to remove portions of the area to keep them in DNR management to assure potential harvest. He will withdraw that proposal. It’s not on the table. Revenue will come to the County from the cell and communication towers, which will offset the County’s annual cost by close to $100,000. There is value to keeping the towers in the reconveyance area. He described his proposal, which is not on the table. He appreciates that DNR staff from Olympia presented to the County Council recently, but the local DNR staff aren’t as receptive to talking about a Whatcom County recreation plan. In the next few months, they’ll hear more about DNR developing an off-road vehicle park.

Mann stated some of the arguments they’ve heard tonight, such as the Whatcom Land Trust taking over the conservation easement, are not on the table. It’s not an option.

The DNR presentation did not impress him. The DNR has no money for this type of thing. It has less experience and less motivation to do it. If the DNR ever did get around to developing a plan in Whatcom County, they want it to be multiuse, with motorized vehicles,
which he would support. They aren’t going to put that in the watershed. DNR is not the
recreational alternative. The DNR came here with no plan and no money.

He understands some of the fear that it will cost the County some money, and the
County will lose some timber harvest. He understands the timber industry doesn’t like that.
It’s their livelihood and culture. He did not call Dick Whitmore an anarchist. He’s heard
other accusations and hyperbole that the County could seize other private land next. The
County isn’t seizing private property. This is County land being managed by the State, and
the County is asking for it back.

This will be a net positive for recreation, economic development, and water quality.
It will not solve water quality problems in Lake Whatcom. Development is a much bigger
problem, but it’s still better. Logging roads and mass wasting events are serious issues.

The most important reason he’s supporting this reconveyance is because he wants
Whatcom County to control its own destiny, which also requires they write their own checks.
He doesn’t ever want to be in the position again of having to sue one State agency to
protect the drinking water, at the same time another State agency is sanctioning the County
for not doing enough to protect the drinking water.

Whatcom County is up to the challenge of managing the land for its benefit. Even
though he disagrees with some people, there is no animosity. There is an awesome sense
of community in Whatcom County. He supports the reconveyance for the children of
Whatcom County.

Brenner stated she doesn’t support the reconveyance. Her issue is lake water
quality. She asked a local DNR employee whether the reconveyance would afford any
significant water quality improvement in the lake. He said he could not tell her that would
happen. The biggest problem in Lake Whatcom is pollution, which is caused by
development. The Department of Ecology will make the County spend millions to fix it.
There are many other things the County must do to encourage people to retrofit. Those are
the big costs and big benefits. If another tree was never cut in the watershed, there would
still be landslides and mass wasting. The last one caused by logging was many years ago.
The State laws have changed since then.

Whatcom County passed the landscape plan. The State was concerned that it be
reimbursed for costs, which was mediated. It was the best plan anywhere in the country.
Whatcom County has complete local control with the landscape plan. If someone isn’t doing
something right, the County steps in with the landscape plan. The landslides and mass
wasting that will happen are very expensive, and will become the County’s liability.

She was very upset with DNR when it closed the north fork trail system. She learned
that the DNR had been in negotiations with the mountain biking community since 2007 to
stop building illegal trails in that area. The illegal building kept happening, so the DNR
closed it down. Members of the mountain biking community admitted during the meeting
that it was doing illegal building. If the County allows illegal trails, it becomes liable. She
had asked if the County was absolved of liability if the area is a public park, and was told
that it won’t matter before a jury. She would rather the County spend money fixing big
problems in the watershed.
She’s scared they will end up losing access to Galbraith Mountain, which has been maintained. She asked for an approximate number of trails for mountain bikes, but was told that will be determined with the park plan. The Council has received much more specific information up front about other parks. The mountain bikers have been loyal supports of the reconveyance, but they will end up losing. She hopes she’s wrong about that.

The main reason for the reconveyance has to do with steep slopes in the watershed. The landscape plan says no one can log in critical areas near unstable steep slopes. The protection exists right now.

They do have an economic problem in Whatcom County. More money has gone out of County government than has come in for many years. Even after they passed the budget, now they have to cut more. The County doesn’t have money. She likes the idea of getting the users to pay, but trail construction still costs a lot of money and time. Money they need won’t be available to take care of the big problems in the watershed that everyone agrees about.

Kremen stated he’s been chastised over the last several months because of his early involvement in and support of the reconveyance, which will benefit this community for centuries. He understands some of the opposition. He supports the reconveyance because it is a rare opportunity to acquire one-quarter to one-third of the entire watershed at a cost of $32.90 per acre, which they already mostly spent.

The reconveyance area will become an old growth forest. An old growth canopy will be the most effective way to minimize the infiltration of significant amounts of rainfall every year. That rainfall increases phosphorus loading in the watershed, which is the biggest problem with Lake Whatcom. Logging is not nearly the biggest culprit of phosphorus loading, but it is important to reduce that loading.

Another benefit is the rare recreational opportunities so close to an urban area. The benefit and value will be forever. It will provide connectivity to the Olsen reserve and Stimson. Whatcom County will control it forever. That is the same vision that created Central Park in New York, on a much grander scale. They need clean, safe drinking water for businesses and a viable economy. The benefits are great. This is a rare opportunity.

He’s sensitive to the impacts to the logging industry. He has many friends involved in the logging industry who are vocal opponents of the reconveyance. However, logging 3,500 acres on a 60 year rotation will allow about 55 acres per year for logging. The financial impact to the logging industry is almost not discernable. About ten percent of the logs harvested in the watershed are being processed in Skagit County because it’s better financially.

The County has more than $6 million in the conservation futures fund, which will pay for almost all of this. The fund collects at least $1.1 million annually. The County Council voted to increase the tax for conservation futures a few years ago. At that time, he knew they didn’t need it. He vetoed that tax increase, because he had the taxpayers in mind. A lot of people talked about their taxes being increased. Whatcom County has not increased the County’s general fund property taxes. Increased property taxes come from the fire districts, school districts, and other levies. That’s what is causing property taxes to
increase, not more parks. They have an ample supply of money to acquire and maintain
the park system.

He’s proud that the reconveyance project, which began in 2006, will culminate	onight. He’s proud to have worked with Parks Director McFarlane and Rand Jack from the
Land Trust, who see the value of this opportunity. They are lucky individuals who had the
vision to protect this land for posterity.

Knutzen stated he hears totally different things from the DNR than Councilmember
Mann hears. The State legislature has funded the DNR’s program for the last couple of
years, and it will be funded again this year. Whatcom County has no money or plan. The
only money it had was $1.5 million that was purposely hidden in another account until
Councilmember Brenner and the State Auditor exposed it and told the County to transfer
the money back where it belonged. The County is the one that has no money or plan. The
recreational plan seems to revolve. He doesn’t know how many recreation plans the County
has put together, but the DNR’s presentation was substantial. He’s not aware of any lawsuit
about this other than the Mount Baker School District for its lost revenue.

Weimer stated he supports the reconveyance. They talked about this for six years.
All elected officials with authority in the watershed are in favor of it. The DNR said they
hear about the demand for recreation in Whatcom County, more than anywhere else in the
state. Some of it is for off road vehicle recreation, but a lot of it isn’t.

They’ve heard from lots of business owners about how the area will provide
significant direct and indirect economic development opportunities. A group of economists
from Western Washington University explained how this park can grow the economy.

The park happens to surround the drinking water source for a majority of the people
in Whatcom County. There isn’t a huge water quality impact, but there is some protection
to reduce and prevent more pollution from ending up in the lake.

The main reason he will vote for this is because parks are the things the County pays
for that represent love and happiness, as opposed to a new jail and new courts and judge.
The government has things that are higher a priority than parks, but parks are where he
goes with his kids.

Kershner stated she has worked on this issue since she came onto the Council. She
spent hours with the Parks Director getting her questions answered. This does not have a
significant impact on drinking water quality. It may provide some small protection. It won’t
solve the drinking water problem. Old growth forests require 500 years to grow. Old
growth forests require selective logging. An experienced forester will have to help the
County with that. Today’s timber practices do not create the same issues with landslide as
they may have in the past. Logging practices have improved. Maligning the timber
industry for creating landslides is unfair.

She doesn’t support giving control of this area to any outside agency. Whatcom
County can and should manage the area. They are not proposing a tax increase. She
wouldn’t support a tax increase for this area.
The land will remain zoned commercial forestry. In areas where it is appropriate, they should collect revenue from timber harvesting. The State keeps most of that timber revenue.

DNR is also not the magic solution. The DNR has to ask the legislature for money. If it does get money, it has not yet selected Whatcom County for recreation planning, even though it ranks high. If the DNR receives money for recreation planning, Whatcom County has a good chance of receiving that recreation plan. However, the DNR is doing a planning process, which sounds very good. The Parks Director said Whatcom County will do a similar planning process. That means all the public will be involved. She will expect there to be public outreach and information sessions. The public will be able to provide input into what this area looks like. There will be a rigorous review process and go through the Parks Commission and possibly Planning Commission. The citizens will be able to participate in that process. They can’t do that expensive planning process without having control of the land.

A lot of research has been done on what this is about. The risks and benefits are known. It’s time to make it something Whatcom County can be proud of. The land was reconfigured last year to remove the prime timber area out of the reconveyance area. This is the land with steep and unstable slopes. There is still some potential for timber management, but the majority of it is the area where they wouldn’t want to log anyway. It’s the area where the landscape plan wouldn’t allow logging. She supports logging in areas where it makes sense, thinning, and helping it to grow into an old growth forest that’s healthy.

It’s true that the County has other priorities. The County can do all that and still manage this land. They are using a dedicated fund with a huge balance on this reconveyed land. They aren’t using employee or jail money to fund it. They are using conservation futures funds and revenue from the communication towers.

The landscape plan is the most restrictive in the nation. The timber industry and other businesses must be strong. They must promote many different types of businesses. They must diversify. Recreation is a prime industry for Whatcom County. This reconveyance will help the recreation industry.

Make sure they have local control of the resource, that it remains commercial forestry and allows timber harvest in appropriate areas. Consider if they can allow off-road vehicle use in the area, recognizing that it may not be possible. Retain all the rights and resources in the County. Encourage the use of volunteers to keep costs down. Locate trailheads and parking lots outside the watershed and off the small roads. She won’t support any new taxes for the park. It must pay for itself. She’s interested in the Anacortes model for selling conservation easements to raise funds for this park. Everyone should work together and make the project the best it can be for Whatcom County. Stay engaged in the process. She supports the reconveyance.

Mann thanked Councilmember Kershner for her skill in managing the meeting tonight.

Kremen stated he commends everyone who participated and spoke tonight. Earlier today, he asked staff to tabulate all the correspondence the Council received since January
3, 2012. According to staff, the Council received 996 emails. Of those, 771 emails supported the reconveyance and 225 were opposed to the reconveyance. That’s close to the 74 percent result of the survey.

The motion carried by the following vote:

**Ayes:** Kremen, Crawford, Weimer, Mann and Kershner (5)

**Nays:** Brenner and Knutzen (2)

**ADJOURN**

The meeting adjourned at 11:05 p.m.

The Council approved these minutes on ______________, 2013.

**ATTEST:**

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

______________________________  ______________________________
Dana Brown-Davis, Council Clerk   Kathy Kershner, Council Chair

______________________________
Jill Nixon, Minutes Transcription
Whatcom County Council  
Special Surface Water Work Session  

March 19, 2013

CALL TO ORDER

Council Vice-Chair Bill Knutzen called the meeting to order at 10:30 a.m. in the Whatcom County Courthouse Fifth Floor Conference Room #513, 311 Grand Avenue, Bellingham, Washington.

ROLL CALL

Present: Barbara Brenner, Sam Crawford, Bill Knutzen, Ken Mann, Pete Kremen and Carl Weimer  
Absent: Kathy Kershner

SURFACE WATER WORK SESSION (AB2013-024)

1. CANYON CREEK INTEGRATED FISH AND FLOOD PROJECT

Paula Cooper, Public Works Department, read from the presentation in the packet.

Brenner asked if there will be access for the public when the creek is not flooding. Cooper stated the land is owned by the Land Trust and is accessible to the public, except during construction.

John Thompson, Public Works Department, stated staff doesn’t see that there will be any change to the current public access.

Brenner asked which lots the County purchased. Cooper indicated County-owned lots on the presentation map.

Brenner asked if the privately owned lots will change. Cooper stated they won’t. The community fully supports the project.

Brenner asked for detail about habitat features. Thompson stated several fish species use the creek up to a waterfall four miles upstream. The creek channel shifts back and forth frequently, so there isn’t a lot of spawning habitat. The engineered structures will help create pools for spawning gravel and fish cover. Creek velocities will drop. Sediment deposition will increase. Log jams in the middle of the project and to the east will help with the riparian vegetation.

Weimer asked if the County money in the budget is all from the flood fund. They’re talking about opening it up to water resource inventory area (WRIA) activities. He asked to see the flood fund budget. Cooper stated the current flood fund balance is about $11.7 million.
Brueske stated the levy collects about $3 million per year.

Crawford stated the eagle population has exploded this year. He asked if they eat the salmon, and if that’s a factor in the salmon population. Thompson stated the eagles eat the salmon when the salmon are dead or dying. The juvenile fish are too small for eagles. Eagles are drawn in by the chum salmon. It’s a good indicator that more fish are coming back.

Crawford asked for an update on salmon spawning in the river. Thompson stated the number of spawning fish varies annually. Generally, there is a decline in the number of fish using this reach due to habitat unsuitability. Those that spawn don’t survive because eggs are scoured away.

Crawford asked if there has not been any notable improvement in ten years. Thompson stated there has not been notable improvement in this lower reach. They removed 500 feet of the levee in 2009 and made other modifications to the falls. Since the modifications, the pink salmon were able to move through. The reach is pretty much passable now. Salmon can get there, but the quality of the spawning grounds hasn’t improved.

Crawford asked if staff are confident that Canyon View Drive will hold up. Cooper stated they’ve done the best design possible. There will still be a turn. The design is a wider cross-section that reduces velocity and provides area for material to drop. There’s no giant levee that will not fail. That’s a big factor. Levees increase risk if they fail.

Crawford asked if the Mount Baker Highway would ever be rerouted over the top of the alluvial fan rather than below. Cooper stated the Washington State Department of Transportation (WSDOT) has that grand vision, but they may not ever see funding for it.

Mann stated he is skeptical of funding this and similar projects. It is a money pit. It has steep slopes and a powerful creek with lots of water that carries debris. The people built houses there, and now they want the County to spend millions of dollars to protect their houses.

Crawford stated the County approved the plan at standards that wouldn’t be allowed today. The entire plat is on the alluvial fan.

Mann stated they’re saying the government is in the business of idiot-proofing the world for everyone. It’s obvious there’s a huge, steep creek right here. He asked what happens if the County does nothing. They’re trying to turn the creek over 90 degrees, which is against its nature, and send it around another sharp turn so it can go under an existing bridge. If the creek goes out of its banks, it could threaten the Mount Baker Highway. That’s incentive for the State to grant funding. He asked if Council action is needed today. Brueske stated he is not. The next step is a supplemental budget request before the Council.

Mann stated he may not support it. The State should step up because the Mount Baker Highway could be threatened.
Brenner stated County government has a responsibility because it approved the development. There is equal responsibility, but there won’t be equal impact if they do nothing. They can’t undo what’s been done.

Knutzen asked the status of this in terms of the PL-8499. Cooper stated it’s a revetment, and will never meet their vegetation requirements. Large trees will stabilize the slope on an alluvial fan.

Brenner stated the trees may also cause worse problems when they break loose. Cooper stated all consultants recommend large forests in this type of environment. They may dislodge, but they will slow the large mass of material coming down.

Thompson stated it’s a standard forest practice that creates a fence effect at the head of the alluvial fan. A mature forest condition strains out the big chunks. On the inside of the bend was an area proposed for harvest in 1989. Because of the alluvial fan, the trees remained. There are two to three feet of gravel that buried the base of the trees during the event.

Brenner asked if the funding is completely from the flood fund. Brueske stated it is. They hope the legislative request for financing will offset those funds. The project will go out to bid in early April, so staff wants assurance from Council that the money will be there.

Brenner asked if the staff emphasized the highway threat to the State. Cooper stated she hopes to soon see a letter of support from WSDOT for the legislators.

Thompson stated WSDOT is supportive, but tends to focus on right-of-way.

Kremen asked how closely staff have worked with WSDOT and the legislature. The County, City, and Port lobbying group is mostly working on the Bellingham waterfront and Port of Bellingham issues. He was offended during a meeting with Senator Erickson when all the time was spent on issues that only pertained to the City of Bellingham and Port of Bellingham. The group hasn’t even contacted him or been working on issues related to Whatcom County. He needs information from the County staff so he can get them working on this as quickly as possible to get it in the queue. Cooper stated the lobbyist has talked to the legislative liaison with the Puget Sound Partnership. She will forward a copy of the email to Councilmember Kremen.

Kremen stated he needs that information so he can emphasize this. Their attention and focus has been solely on issues unrelated to Whatcom County.

Crawford stated Canyon Creek was not on the list of issues.

Knutzen stated he was skeptical from the beginning. There isn’t one County issue they’re working on. During the meeting, he wasn’t even able to get a word in about anything pertaining to Whatcom County.

Knutzen stated he forwarded this and another project to Senator Erickson, who is aware of what’s going on.
Kremen stated the County isn’t getting any assistance from the lobbyists, which are supposed to have influence with the key committee chairs legislators in Olympia. The lobbyists must push part of Whatcom County’s agenda as well as the Port’s and the City’s.

Larry Brown, Sudden Valley Board, asked design questions. There are four engineered log jams to the south on the west side of the river. He asked why they can’t shift some of the log jams to the north to provide increased protection where the creek makes a sharp bend. He asked if they considered purchasing some of the lots at the sharp bend to manage future problems. Cooper stated those four engineered log jams are in a low area. They are preventing the creek from going over Mount Baker Highway. The purpose is to get the river back to the north fork. They don’t want to clog things up too much. They want to let some of that material move through. If they install too many jams, the river will clog.

Brown stated most of the private properties on the other side of the road are in the most danger of being washed out. He asked why the County isn’t removing those lots. Cooper stated it would cost a lot more money because those lots are developed. It’s a matter of money. She would love to do both, but the question is how much money they are going to invest in the problem.

Crawford asked if those homeowners are required to buy Federal Emergency Management Agency (FEMA) flood insurance. Cooper stated they aren’t required. It is a mapped alluvial fan, not a 100-year flood zone. It’s not required, but she highly encourages it. One of those houses did have flood insurance, and FEMA paid them after the fact. It is now one of the County’s repetitive loss areas.

Ellen Baker stated she’s lived in the area for 40 years. She has all the WSDOT studies. She fished the area. A lot of money is spent from environmental protection funding for flood work. The water is cold. None of the water there is warm. The reach is very fast. It is not and will never be spawning habitat. There is too much water. This is a flood project. She’s concerned that habitat funds are spent on flood protection. Shade trees don’t cool water that is already near freezing. Even in the summer, the water is very cold. Don’t spend millions in the name of environmental habitat when it’s not salmon habitat. It’s passage. Also, the bridge is anchored in rock. It has not been endangered. She’s seen the 100-year floods. It’s a very high bridge.

Thompson stated Pacific salmon spawning is well-documented in this reach.

Brenner stated the salmon should have pools. She asked if cold water is a concern. Thompson stated it is not. Typically, water is too warm. They don’t have any limitations on salmonid spawning in the Nooksack because of the water being too cold. In particular, bull trout need very cold water.

Greg Brown stated they are at a point of emergency and have to make a decision in two months to have something done by April, involving a huge amount of money. That offends him. Plan these things better. He appreciates the County talking to an advisory committee that was brought into the WRIA project unannounced and unattended. He asked if they consulted with the Planning Unit on this for surface water runoff.

Knutzen stated the Flood Advisory Committee discussed it.
Cooper stated the Flood Advisory Board has existed since 1991.

Brown stated an advisory committee doesn’t have any standing in the WRIA.

Brenner stated they have standing with flood projects.

Brown asked if the flood Planning Unit is involved.

Brenner stated the Planning Unit is not yet back together. Just say it. That’s the point.

Brown stated this is moving ahead without the approval of the Planning Unit.

2. WHATCOM COUNTY AQUATIC INVASIVE SPECIES ORDINANCE

Chris Brueske, Public Works Department, stated the County aquatic invasive species program will have to be different from the City of Bellingham program. He will bring forward an ordinance to the County Council in a couple of weeks. There are elements they need to discuss before he can put the proposed ordinance together. He submitted information (on file).

Knutzen stated they are seeing some of the results and responses from folks. If they’re going to do an invasive species program, it makes no sense to restrict it to Lake Whatcom. If it’s in Lake Padden, it’s in Lake Whatcom.

Brueske stated he suggests that the ordinance be an interim ordinance to allow for changes and flexibility in future years. The logistics and budgetary issues limit their ability to address other water bodies besides Lake Whatcom. The County’s program is more complicated than the City’s. The City can lock their gates and control their launches. They can handle the vast majority of high risk boats coming and going. The County doesn’t have that luxury. There are many more water bodies and many uncontrolled boat ramps. Each lake has varying degrees of difficulty for regulation and inspection. The program is risk-based. They must go after the highest risk boats first. Think about enforcement issues if the County program differs greatly from the City’s.

His questions are what water bodies will require mandatory inspections, when the County will require inspections, which vessels will be required to have inspections and stickers, and what amount the County is going to charge. The highest risk boats are boat on trailers from outside the county. Medium risk boats are County residents with boats on trailers going to lakes inside the county. They must rely on outreach and education to make the program successful. Once people are trained and understand the ramifications, especially the residents, trust they’ll do the right thing. Consider county residents as medium risk because the County can get them with outreach. Lower risk boats for all lakes are the resident boats that never leave the lake. That includes Faison Lake, Wiser Lake, Silver Lake, and rented boats at Lake Samish. There are many resident boats that don’t go anywhere. Consider how to address those. Low risk boats are also hand-carried, car-top boats. Consider how to handle those. Consider a self certification program for residents now or in future revisions. They can’t lock down all the lakes. They will have to rely on education and outreach.
Knutzen asked if the County can have a countywide day where a boat owner can get the boat inspected, decontaminated if needed, and buy a permit at the same time. Brueske stated the City and County have had two events where people could do that. Now, if someone calls for an inspection, the County can send someone to wherever their boat is on the lake. If they are at the South Bay launch, the County can send someone there to do the inspection and issue an inspection that day. There may be delays depending on where the boat is at. He looks for opportunities to streamline that process.

The City Council established a $20 fee for a one-day pass and a $50 fee for an annual pass, which allows unlimited inspections and free boat lock to the trailer.

Knutzen asked what happens if someone has more than one boat. Brueske stated they’ll have to address that question. Now, the City requires an owner to buy a pass for each boat.

He asked which lakes should require mandatory inspection, and when they would be required. He asked if he should include Lake Samish in the draft ordinance. The launch at Lake Samish is controlled by the Washington State Department of Fish and Wildlife (WDFW). The County has a Sheriff boat there available for enforcement. It will be difficult to do inspections.

Brenner stated the question is whether they want to reduce or stop the problem, or make money, or both. Her intent is to reduce or stop the problem. The program should include at least Lake Whatcom and Lake Samish. There should be an online ability, especially if people are only going to have their boats on Lake Whatcom, not anywhere else. Otherwise, it will be punitive and may discourage many people.

Crawford stated the point of enforcement should be the sticker. The sticker represents a protocol that there has been inspection and owner education. Disconnect the concern about inspections. If someone doesn’t have a sticker on the boat, they don’t get to go in the water. Inspections should be something that someone does away from the lake. The sticker would have an associated document. There’s no practical way to assume this program includes the luxury that the boat owners can ignore the whole program until the day they want to use their boats, and then have some expectation they can get their inspection and do all those things. That’s not what they do for cars. They go through an annual renewal process for vehicles. This is more about educating people about getting a sticker to use boats countywide. For public convenience, they may be able to have inspection events in cooperation with the City on busy weekends. Don’t make the inspection program the focus of a lakeside effort. The inspection program becomes part of the licensing effort that can occur away from the lake, in preparation for the boating season.

Brueske stated he agrees that trying to inspect every boat in place won’t be feasible. There has to be some other way to get at that.

Mann stated they would like to have this program affect all the lakes in the long-term. Today, there are still questions about actual implementation and enforcement. He hears staff saying they may not have the capacity to roll out the program in all lakes simultaneously. As much as he would like blanket protection, educating the public has value. Limit the program to Lake Whatcom this year, with the understanding that they will
learn this year about what it’s like and what the problems are and then expand the program
next year or two.

Brenner asked if Councilmember Mann thinks they can’t do Lake Samish this year.

Mann stated he doesn’t know. Maybe they can do enforcement on Lake Samish. Send a Sheriff boat to Lake Samish to check for stickers. He’s talking about lakeside inspections and tying boats to trailers with a bunch of staff. That may not be feasible now.

Knutzen stated it needs to be a countywide program. With a sticker, the boat owner acknowledges that invasive species are important enough for them to invest the fee for the sticker. Just doing Lake Whatcom seems like a backdoor effort to get boats off the lake. They will drive all that traffic to another lake. If they are going to do a true aquatic invasive species program, do a countywide program for all freshwater bodies in Whatcom County. Enforcement will be random, depending on where the Sheriff boat is.

Mann stated they could have different levels. Have the Sheriff’s boat intercept people on a lake, but only have the actual lineup and inspections at Lake Whatcom.

Crawford stated there is enforcement and there are inspections. They won’t have either one at Wiser Lake, unfortunately. However, go ahead and require the sticker.

Weimer stated he agrees that this needs to be countywide. Make it as easy as possible on Lake Whatcom, but he has no problem with educating people on any lake in the county. Do random enforcement. Maybe don’t enforce anywhere other than Lake Whatcom this year, but someone on Lake Samish without a sticker can be stopped and reminded they’ll need the sticker next year or the year after. He prefers that it should be a requirement everywhere from the beginning, except Ross Lake or Diablo Lake. Seattle City Light might want to chip in to the program for those lakes because they don’t want their dams clogged with mussels.

Brueske stated he hears broad support to make the program countywide, recognizing that it will be difficult logistically to do any enforcement other than on Lake Whatcom for the year. The Sheriff’s boats are primarily on Lake Whatcom and Lake Samish.

Knutzen stated the WDFW has boats on lakes throughout the year.

Crawford asked if this will include the Nooksack River.

Knutzen stated it is a fresh water body.

Kremen stated they’ve been given a bunch of examples of where different areas are charging different fees. There’s a huge range of fees in other jurisdictions. It seems like the City of Bellingham proposals are among the highest in the whole country. They need to pay for some sort of a program. He agrees that it shouldn’t just be limited to Lake Whatcom. They also need to consider how much the fee will be. The proposal from the City of Bellingham seems excessive. Take a more even approach based on what the market will bear and what is fair. A lot of it might be better collected by the State rather than at each individual community. Idaho and Oregon collect funds at the State level. In terms of
logistics and efficiency, take a look at something like that. It can’t be created quickly, but they need to be more discerning when it comes to where they require the fees and how much the fees will be, depending on the vessel size. Be more discriminating. In some areas such as Santa Barbara County, non-motorized canoes or kayaks have a $5 fee. The City of Bellingham proposal doesn’t differentiate between a 26-foot Bayliner or a 12-foot kayak. The proposal doesn’t seem to be created with much thought. Brueske stated the City ordinance exempts kayaks and canoes from the fee. There’s no guarantee they will remain free.

Clare Fogelsong, City of Bellingham, stated the research that went into the fee structure included several contacts throughout the nation. Almost all those other programs subsidize this program in some way or another. They already have rangers at the water bodies subject to their program. They charge a minimum amount on top of some other onerous fees for other things. Big Bear Lake in California charges $10 for the program, but also charges launch fees, park use fees, and dock fees for residents. Those fees add up to about $350 per year. Several other programs have some personnel on site already for other programs, so they can implement the aquatic invasive species (AIS) program cheaply, as long as the initial program subsidizes it. The City program fees may look high, but they really aren’t because they are the standalone fee. Few other programs actually charge enough to pay the entire cost of their AIS program. He didn’t find any program with a fee structure that paid the complete cost of the AIS program. A jurisdiction in New York heavily depends on tourism, and doesn’t want to impact tourism in the community. The City tried to set a fee that wouldn’t overly burden the recreational users. Any fee will be a change. A fee of this kind for some people will prohibit participation. The City will revisit it next year to adjust the fees for boat length and the time it actually takes to inspect the boat and provide the service. That way, they may be able to get to a more equitable fee structure for people who have small boats and use the lake only a couple of times per year. This year, this is the best they can do. It’s a balanced recommendation.

Brenner stated she agrees to disagree with Mr. Fogelsong regarding fees. Don’t start off being punitive.

Weimer stated he watched the City Council hearing on the program. Most of the people who spoke at the hearing didn’t seem to have a problem with the fees. They wouldn’t mind paying $100 or more, as long as they get to put their boats on the lake as easily as possible. He doesn’t know what written correspondence the City has received. As a starting point, he doesn’t have a problem with the proposed fees. The staff heard direction from people that the fees should pay for the program as much as possible, and not subsidize the program with other money that no one has identified.

Brenner stated don’t make this a program for only the wealthier people. It’s likely someone asked the people to attend to testify. If the program begins to feel punitive, people will go around the rules. People should have options.

Weimer asked what other source of money the County will use to pay for it, or if the County will have a program that doesn’t really keep AIS out of the lake.

Brenner stated it’s not one extreme or the other. The County pays for recreational things as part of the park fund and other funds all the time. She’s not sure. Just don’t charge a bunch, and then decide later they don’t need to charge that much. If someone
has a boat on the lake that is not going anywhere but that lake, the owner should be able to 
pay the fee once and renew it online.

Kremen stated he accepts Councilmember Weimer’s observation at the City Council.
People live in the watershed, and especially on the water, have docks and have a lot of 
money invested in their property. To them, an extra $200 is not much. He can see why 
they don’t mind paying $100 or $200 per year. There are also people who live on the lake 
who can barely pay their property taxes, and have a 10-foot kayak that only goes on the 
lake. There needs to be accommodations for those kinds of boaters, in addition to people 
with expensive boats that are more susceptible to collecting invasive species. In all 
fairness, the City and County are trying to put together a program in a constrained 
timeframe. Anything they do should be well-thought out and equitable as possible.

Mann asked Councilmember Brenner to explain what she thinks is punitive.

Brenner stated punitive is punishing or discouraging a certain behavior. Don’t 
disourage people from taking their boats on the lake. Figure out the cost, and have 
several different options.

Brueske stated that to be consistent with the City and limit logistical challenges, he 
recommends following the City of Bellingham’s exemption of hand-carried kayaks and 
canoes. They can revisit it later. Consider something that gives concession to low-risk 
boats, such as car-top boats or boats with small horse-powered engines that aren’t on a 
trailer. They have a low probability of traveling or carrying contaminated water back if they 
do travel. Boats that don’t travel cause the Sheriff an enforcement headache. The boat 
either has a sticker or doesn’t. That gets back to the self-certification program. They’re not 
ready to roll that out right now. It can be in place for next year.

Kris Halterman stated she viewed the City  
meetings on AIS. Only five people 
showed up at the evening hearing meeting, during which Jon Hutchings said the cost 
estimate was his best estimate, which is only one step above his best guess. She read City 
Council Member comments from the committee meeting. They want full cost recovery, and 
they really want boats off the lake.

Kremen stated it may be something Bellingham overlooked, but there should be 
some sort of consideration given to resident versus non-resident users, whether it’s in-
state/out-of-state or in-county/out-of-county.

Crawford stated he tends to agree with the City Council Members. Don’t make other 
taxpayers pay for this program. Boat users need to fund the program. He’s not excited 
about letting the personal watercraft and kayakers off the hook. Make sure they’re 
inspected, so they need to also bear some cost of the program.

Knutzen stated he’s disappointed that they are willing to subsidize other recreation 
uses, but not willing to subsidize boaters. The County subsidizes the horse folks in the 
amount of $2 million in taxpayer funds at the South Fork. Now they’re doing the same 
thing for hikers and bikers. It’s not true that the County doesn’t subsidize other recreation 
groups. They aren’t taking property out of the tax base to subsidize the boaters.
The meeting adjourned at 12:05 p.m.

The Council approved these minutes on ________________, 2013.

ATTEST:

WHATCOM COUNTY COUNCIL

WHATCOM COUNTY, WASHINGTON

______________________________  ______________________________
Dana Brown-Davis, Council Clerk   Bill Knutzen, Council Vice-Chair

______________________________
Jill Nixon, Minutes Transcription
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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**TITLE OF DOCUMENT:**
Ordinance amending the Agricultural Purchase of Development Rights Program application procedure and guidelines

**ATTACHMENTS:**
Memo

**SEPA review required?** ( ) Yes ( x ) NO  
**SEPA review completed?** ( ) Yes ( ) NO  
**Should Clerk schedule a hearing?** ( x ) Yes ( ) NO

**Requested Date:** April 9, 2013

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Proposed amendments are included from the Purchase of Development Rights Oversight Committee, including changes to WCC 3.25A and the PDR Program Guidelines.

**COMMITTEE ACTION:**  
3/26/2013: Discussed and recommended for Introduction

**COUNCIL ACTION:**  
3/26/2013: Introduced

**Related County Contract #:**  
**Related File Numbers:**  
**Ordinance or Resolution Number:**

**Please Note:** Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: www.co.whatcom.wa.us/council.
MEMORANDUM

TO:  Honorable Whatcom County Council Members

CC:  The Honorable Jack Louws, County Executive

FROM:  Samya Lutz, Planner

THROUGH:  Mark Personius, Long Range Planning Manager

RE:  Agricultural Purchase of Development Rights Program Changes

DATE:  March 12, 2013

In June of 2012, at Council’s request, the Agricultural Purchase of Development Rights (PDR) staff and Oversight Committee discussed the PDR program with the Council Natural Resources Committee. That discussion included contextual and historic information about the program, program funding, and accomplishments and challenges over time. The PDR Oversight Committee also described a number of priorities for program changes. Staff is now coming to you on behalf of the committee to bring forward some of those developed changes.

Context for PDR Program Changes

Past discussions have made it clear that there is a strong interest in refocusing the PDR efforts on core agricultural areas, instead of the past focus on the “edge” of the agricultural areas. This refocusing presents a challenge, as the current Program Guidelines were written to prioritize the edge areas. In addition, the typical appraisal methodology of looking at “before” and “after” values to determine the cost of a conservation easement also can stimulate PDR interest in the edge areas, as the differential between agricultural value and development value can be higher in those areas.

The proposed modifications to the PDR Program Guidelines and WCC 3.25A will enable the Oversight Committee to further develop a strategy for targeting the core agricultural areas, as requested by both the Executive and Council. Elements of this core agricultural strategy slated for further development could include:

- Analysis of small lots within the agricultural zone created through previous exempt land divisions,
- Creation of a “reverse auction” procedure that targets these lots, sets clear priorities and parameters for eligible property, and creates a process for property owners to voluntarily offer their own price for selling development rights, and
- Pursuit of consultant assistance to ready this concept for implementation.

---

1 Reverse auctions are buyer-initiated, and work when there are many sellers who offer similar goods and services.
In addition, council approval of additional PDR funding last fall is enabling added staff capacity beginning later this spring. Benchmarks are being developed to ensure new staff are set up for success, focusing on this core agricultural strategy and increased outreach.

**PDR Program Changes Proposed**

WCC 3.25A.040 contains the following definition:

The "PDR program guidelines" shall be adopted by county council and contain the rules and regulations under which the PDR program operates. They include eligibility criteria, site selection criteria, a standard conservation easement and other procedures and information necessary to ensure fair and consistent administration of the PDR program.

The PDR Oversight Committee has reviewed the guidelines and recommends the changes as tracked in Attachment B of the draft ordinance. The changes can be summarized as follows:

- Language to reflect the interest in a focus on the core agricultural areas as opposed to the 'edge';
- Various modifications to the site selection criteria to reflect the 'core' focus and simplify the process;
- A desire to have the flexibility of a rolling application process rather than an annual 'round' due to changes in granting agency deadlines and desire to be responsive to opportunities as they arise;
- Proposal of a minimum cutoff score of 40 points to focus on priority properties and be consistent with the rolling application process;
- Language that updates the guidelines to reflect the ongoing nature of the program;
- Language that changes the valuation process so that
  1. Estimations of value can be done prior to a full appraisal so that time and funding is used most efficiently, and
  2. Allowance is made for development of an alternative valuation approach that upon specific authorization of the Executive and Council could be used in lieu of a federal USPAP or Yellow Book appraisal if transactions were chosen to move forward without match funding;
- Clean-up of language and references; and
- The addition of two appendices for reference: the soils list as referenced in the Site Selection Criteria, and the sample conservation easement deed as references in WCC 3.25A.040.

We would like to move these changes forward and believe they will clarify and improve the administration of the program. Modifications are also proposed to WCC 3.25A consistent with the Program Guidelines modifications.

Thank you for your consideration of these changes. For additional information, see the website [http://www.whatcomcounty.us/dfs/plan/Ir/projects/agprogram/pdr.jsp](http://www.whatcomcounty.us/dfs/plan/Ir/projects/agprogram/pdr.jsp). Please contact Samya Lutz at extension 51072, if you have any questions or concerns.
SPONSORED BY: PDR COMMITTEE
PROPOSED BY: PLANNING
INTRODUCTION DATE: MARCH 26, 2013

ORDINANCE NO. ________

AMENDING THE AGRICULTURAL PURCHASE OF DEVELOPMENT RIGHTS PROGRAM
APPLICATION PROCEDURE AND GUIDELINES

WHEREAS, The Growth Management Act and the County Comprehensive Plan
support the retention of agricultural lands and encourage the use of innovative techniques
to do so; and

WHEREAS, ORD2002-054 established the Agricultural Purchase of Development
Rights Program (PDR Program), applicable to all qualifying lands as identified in the PDR
Program Guidelines, and governed by an Oversight Committee that is to advise and make
recommendations to the County Council; and

WHEREAS, The PDR Oversight Committee has developed priorities for program
improvements; and

WHEREAS, The PDR Oversight Committee met on March 1, 2013 and voted to
recommend changes to the PDR Program; and

WHEREAS, The Whatcom County Council held a public hearing to take comments on
the proposed code amendment on April 9, 2013.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that:

Section 1. The Whatcom County Code, Section 3.25A.070 is amended as shown in
Exhibit A.

Section 2. The PDR Program Guidelines changes are amended consistent with this
code amendment, and as shown in Exhibit B.

ADOPTED this ________ day of ______________, 2013.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

__________________________
Dana Brown-Davis, Clerk of the Council

Kathy Kershner, Council Chair

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

__________________________
Civil Deputy Prosecutor

Jack Louws, County Executive

(  ) Approved (  ) Denied
Date Signed: ____________________
Whatcom County Code, Chapter 3.25A
AGRICULTURAL PURCHASE OF DEVELOPMENT RIGHTS PROGRAM
Only amended sections are shown below

3.25A.010 Short title.
This chapter shall be known and may be cited as the “Agricultural Purchase
of Development Rights Program.” For the purpose of this chapter this
program shall be known as the “PDR” program.

3.25A.100 Application and evaluation procedure.
Beginning in the first year following the adoption of the ordinance codified in
this chapter and continuing at least once a year until funding has been
expended thereafter, the county shall conduct a voluntary property selection
process (“selection round”) generally as follows and pursuant to the PDR
program guidelines.

A. Application. During each application round, owners of qualifying lands
will be invited to make application for purchase of development rights by
the county by giving notice in one newspaper of general circulation.
Application materials will be provided by the administrator and will
include, at a minimum, a standard application form and
information about the PDR program. Applications shall be submitted to
the administrator and reviewed for completeness.

B. Evaluation. Upon closing of the application period, the administrator
shall review and determine eligibility and priority classification of
applications. The applications ranked by the administrator shall be
forwarded to the PDR oversight committee. The committee shall review
the applications and establish an initial pool of parcels for easement
purchase based on selection criteria contained in PDR program guidelines.
The committee shall then forward the initial pool of parcels to the county
council which shall review and prioritize parcels on which it will seek to
purchase conservation easements.

C. Appraisal. For those applications that meet the requirements of
subsection B of this section, the committee shall cause an appraisal of the
applicant’s development rights to be made in accordance with PDR
program guidelines. The appraisal shall determine the difference between
the fair market value of full ownership of the land (excluding buildings
thereon) and the fair market value of the agricultural right to the land.

D. Requirements and Deadlines May Be Waived. Any requirement or
deadline set forth in this chapter or the PDR program guidelines may be
waived by the county council if, for good cause, it is shown that urgent
circumstances exist that warrant consideration of an application. Under
such circumstances the council may purchase a conservation easement at
any time and through any process it deems necessary.
E. Reapplication. An owner of a parcel not selected by the county council
for purchase of a conservation easement may reapply in any future open
application period.

**3.25A.120 Restriction on buy-back – Extinguishment and exchange
of easements.**

If circumstances arise that render the purpose of this easement impossible
to accomplish, the easement can be extinguished only by judicial
proceedings. In the event of such an extinguishment or the taking of the
property by the exercise of the power of eminent domain, grantors shall pay
to Whatcom County an amount determined by subtracting the fair market
value of the property subject to this easement from the fair market value of
the property unrestricted by this easement, at the time of extinguishment or
condemnation if Whatcom County is not compensated for its property
interests at the time of the extinguishment or condemnation. Other details
regarding restrictions on buy-back or extinguishment as may be deemed
necessary shall be contained in the PDR program guidelines, and/or the
easement deed.

....
EXHIBIT B
Whatcom County Agricultural Purchase of Development Rights PROGRAM GUIDELINES

The sidebars in this document explain the edits where necessary, and would be removed in a final version. Tracked changes are shown for added or changed text. The formatting of the entire document is updated from the original.

Photo Courtesy of Farm Friends
Photographer: Jon Brunk
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I. INTRODUCTION

These Program Guidelines are authorized under WCC Title 3.25A and serve as rules and procedures for administering the Whatcom County Agricultural Purchase of Development Rights (PDR) Program.

The Guidelines serve two functions:

A. To provide an overview of the farmland preservation process for the property owner. Specifically, this information can be found in Section V.

B. To establish the rules and operational procedures that the PDR Oversight Committee and the Administrator must follow when operating a Purchase of Development Rights program.
II. PDR PROGRAM OBJECTIVE AND PRINCIPLES

Responding to the loss of County farmland, Whatcom County Executive initiated the development of a Purchase of Development Rights (PDR) program in September of 2001. A PDR Advisory Committee comprised of farmers, citizens and conservation organizations were instructed to assist County staff in developing a proposal for County Council consideration.

A. Objective

In conjunction with other tools for protecting farmland, the Whatcom County Purchase of Development Rights Program will contribute to sustaining the farming enterprise in Whatcom County.

B. Principles

The PDR Program is to provide a strategic tool to protect critically located County farmland.

1. Contribute to the Preservation of the County’s Agricultural Land Base

Encourage the retention of a critical mass of agricultural land to sustain the farm-related businesses and activities that are necessary to support the agricultural industry in Whatcom County. The PDR Program emphasis will be:

   a. Provide a buffer to encroachment of the agricultural core;
   b. Reduce development potential within the agricultural core;
   c. Consolidate and protect large areas of agricultural land; and
   d.e. Address unique and regionally important farming activities outside the agricultural core that are under pressure of development.

2. Develop Effective Program Design

Create Maintain a voluntary tool for the preservation of productive agricultural land in the County that will:

   a. Provide farmers with the market based economic value for agricultural land without selling the land;
   b. Support and promote ongoing agricultural activity by offering an attractive option for farmers and landowners; and
   c. Provide for ongoing monitoring and enforcement.

3. Leverage Program Impact and Efficiency

Enhance and support a coordinated approach to the preservation of the agricultural land that will:

   a. Create community support for agricultural preservation initiatives;
   b. Complement and foster other County programs and policies to preserve farming and agricultural lands; and
   c. Leverage other public and private fund sources and provide or increase property owner incentives.
III. ELIGIBILITY CRITERIA

A. Priority Consideration

Areas around the county have been identified to receive priority consideration for PDR Program participation.

Twelve PDR Target Areas (shown in Appendix A) are priority farmlands that are located within designated areas of Everson, Beard Road, Ten Mile Road, east Hemmi Road, Laurel, south Custer, north Custer, Stein Road, west Lynden, north Lynden and northeast Lynden. Preservation of these areas can establish a perimeter of PDR farmlands against development encroachment into large blocks of agricultural lands.

Nine-Ten Rural Study Areas (shown in Appendix B) are priority farmlands that are located in Rural-zoned areas of Guide/Aldrich, Grandview, Ten Mile, Loomis Trail, Custer, Harksell, East Badger, Minaker, Lawrence, and South Fork. These lands, due to their soils, land use, and proximity to core agricultural areas, are also deemed priority farmlands for program participation.

In addition, the lands zoned Agricultural in Whatcom County are also priority farmlands for program participation. Lands immediately adjacent to Ag lands or Rural Study Area lands will also be given priority through the selection process.

B. PDR Program Eligibility

Applications for PDR acquisition will be limited to the twelve PDR target areas during the first two selection rounds (over a period of 1 year to 18 months). Following the completion of two rounds, the eligibility criteria will be reviewed to determine whether to purchase land outside the target areas. Two factors will be important in this decision: determining eligibility: 1. Availability of funding to expand the program and 2. Advancement of PDR Program objectives. PDR target areas Priority farmlands will continue to receive preference over other farmland through weighted selection criteria.

All applicants for PDR Program participation must be within an Agriculture or Rural zoning designation. Properties located in Urban Growth Areas are ineligible to participate in the program.
IV. SITE SELECTION CRITERIA

All valid applications will be reviewed to determine if the acquisition of development rights will promote the PDR program's goals and priorities. Selection criteria have been developed to guide, but not control, the review and assessment of eligible properties during each selection round.

In all selection rounds, valid and accepted offers on eligible properties of greater points shall be considered for purchase with available funds before properties receiving lower scores. The criteria, which will be used to evaluate the applications, are outlined below.

Rating instructions: The selection criteria allow for a score of up to 100, with all five criteria sections assessed. Each criteria section is rated and assigned a point value. Then each section is assigned a weight factor. The five weight factors add up to 1.0. When total point values for a section are multiplied by the weight factor, a score will be reached for that section. The total of the 5 section scores result in the final applicant score. Staff performs the ranking, with review and adjustment by the PDR Oversight Committee.

1. Land Evaluation

Productive farming and associated activities depend on soil capability (the suitability of soils for most types of field crops). Therefore, emphasis should be placed on the property's soil characteristics. The scoring system uses the NRCS Prime Farmland classifications, LESA classifications and APO soils classifications, as well as classification of soils of statewide importance. Higher points are assigned to better soils and lower points to poorer soils. Points are also assigned based on the productivity and/or characteristics of the soil (profile, texture, slope, other). A soils chart is included as Appendix C.

In addition, five points are added to the total soils score for each soil if the property has drainage tiles, flood protection or soil improvement infrastructure. If water rights are available on the property five more points are added.

Below is a table detailing the soil point system:

<table>
<thead>
<tr>
<th>LESA Rating</th>
<th>APO or Non-APO Prime 1</th>
<th>Non-APO Prime 2-6</th>
<th>Soils of Statewide Importance</th>
<th>None</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>90/100</td>
<td>890</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>2</td>
<td>895</td>
<td>785</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>3</td>
<td>890</td>
<td>780</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>4</td>
<td>785</td>
<td>675</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>No Rating</td>
<td>780</td>
<td>670</td>
<td>50</td>
<td>0</td>
</tr>
</tbody>
</table>

Farm applications receive points for this section proportional to the percentage of each soil type that exists on the property. An example of how this would work follows: A farm under review is 40 acres, of which 29.79 acres (about 75%) is soil 179-Whatcom Silt Loam 4-9% slopes, which is classified as LESA 4, APO Prime 1; and 10.21 acres (about 25%) is soil 180-Whatcom Silt Loam 9-15% slopes, which is...
not classified as APO or Prime, but is a soil of Statewide Importance. This farm would score a total of 76.07 points for this Section, as shown below.

<table>
<thead>
<tr>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
<th>F</th>
<th>G</th>
<th>H</th>
<th>I</th>
<th>J</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Soil #</td>
<td>Area (in acres)</td>
<td>% (B/Total area)</td>
<td>APO Soil</td>
<td>Prime 1-6?</td>
<td>LESA Rating</td>
<td>Prime Rating</td>
<td>Statewide Soil Points</td>
<td>Score (I°C)</td>
</tr>
<tr>
<td>179</td>
<td>29.79</td>
<td>74.48%</td>
<td>Y</td>
<td>Y</td>
<td>4</td>
<td>1</td>
<td>0</td>
<td>85</td>
<td>63.30</td>
</tr>
<tr>
<td>180</td>
<td>10.21</td>
<td>25.53%</td>
<td>N</td>
<td>N</td>
<td>0</td>
<td>0</td>
<td>yes</td>
<td>50</td>
<td>12.76</td>
</tr>
<tr>
<td>Total area</td>
<td>40</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>76.07</td>
</tr>
</tbody>
</table>

Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Land Evaluation section has been 0.33, but is subject to ongoing review by the Committee).

2. Site Evaluation

The points for each criteria are based on a 100 point scale. Higher points are given to site characteristics that are more desirable, such as parcel size, characteristics that reflect a site's threat of conversion, and characteristics that make a site more desirable to farming, such as available water rights.

A. — 1—Total size of parcel(s) (nominal acres)

<p>| | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>a.</td>
<td>30</td>
<td>0 pts</td>
<td></td>
</tr>
<tr>
<td>b.</td>
<td>10-29</td>
<td>20 pts</td>
<td></td>
</tr>
<tr>
<td>e.</td>
<td>320-49.9</td>
<td>430 pts</td>
<td></td>
</tr>
<tr>
<td>f.</td>
<td>50-79.9</td>
<td>670 pts</td>
<td></td>
</tr>
<tr>
<td>g.</td>
<td>100</td>
<td>8100 pts</td>
<td></td>
</tr>
<tr>
<td>h.</td>
<td>&gt;100</td>
<td>100 pts</td>
<td></td>
</tr>
</tbody>
</table>

B. — 2—Number of existing development rights offered under current zoning

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>a.</td>
<td>1-2</td>
</tr>
<tr>
<td>b.</td>
<td>3</td>
</tr>
<tr>
<td>c.</td>
<td>4</td>
</tr>
<tr>
<td>d.</td>
<td>5</td>
</tr>
<tr>
<td>e.</td>
<td>&gt;6</td>
</tr>
</tbody>
</table>

C. — 3—Adjacent land is conserved by easement or other means (Whatcom Land Trust or NRCS CREP Program)

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>a.</td>
<td>&gt;1 mile</td>
</tr>
<tr>
<td>b.</td>
<td>1’ to 1 mile</td>
</tr>
<tr>
<td>c.</td>
<td>1 mile to 1 mile</td>
</tr>
<tr>
<td>d.</td>
<td>1 mile to 5’ mile</td>
</tr>
<tr>
<td>e.</td>
<td>Adjacent</td>
</tr>
</tbody>
</table>

D. — 4—Percent of parcel actively farmed
The Purchase of Development Rights
Oversight Committee recommended removal of questions 5-7. Issues related to the relative priority of farmland proximal to roads and more intensive rural/urban development should be discussed again when priority areas are revisited.

5. Proximity to high traffic roads
   a. ≥1 mile  0 pts
   b. √to 1 mile  25 pts
   c. √to √ mile  50 pts
   d. √ mile  75 pts
   e. Adjacent  100 pts

6. Proximity to UGA or city limits
   a. ≥1 mile  0 pts
   b. √to 1 mile  25 pts
   c. √to √ mile  50 pts
   d. √ mile  75 pts
   e. Adjacent  100 pts

7. Percent of parcel surrounded within √ mile by more intensive uses
   a. ≥75  0 pts
   b. 51-75  33 pts
   c. 26-50  66 pts
   d. <25  100 pts

8. Number of platted/legal lots of record
   a. 0-2  20 pts
   b. 3  40 pts
   c. 4  60 pts
   d. 5  80 pts
   e. >5  100 pts

9. Water Rights documentation available
   a. Yes  100 pts
   b. No  50 pts

Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Site Evaluation section has been 0.33, but is subject to ongoing review by the Committee).
3. **Special Considerations**

G. 1. Site contains heritage/historical significance
   a. Yes  50 pts
   b. No  0 pts

H. 2. Site contains conservation values (viewsheds, wetlands, wildlife habitat, other)
   a. Yes  50 pts
   b. No  0 pts

Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Special Consideration section has been 0.03, but is subject to ongoing review by the Committee).

4. **Bargain Sale Opportunity**

I. 1. Sale below market value
   a. 89%-Full Value  0 pts
   b. 65%-89%  33 pts
   c. 50%-64%  66 pts
   d. < 50% Full Value  100 pts

Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Bargain Sale Opportunity section has been 0.09, but is subject to ongoing review by the Committee).

5. **Bonus Points**

J. 1. Increases the amount of preserved farmland in target or rural study area to:
   a. Not in target area  0 pts
   b. < 25%  25 pts
   c. 25%-50%  50 pts
   d. 51%-75%  75 pts
   e. > 75%  100 pts

Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Bonus Points section has been 0.22, but is subject to ongoing review by the Committee).

6. **Final Score**

The points for each section are added up and multiplied by a weight factor, which indicates the importance that is placed on a particular characteristic. The weighted scores are then added to provide an overall score (0-100). The higher the score, the more closely the property meets the goals of the program and hence is a higher priority for purchase and preservation. Properties which score less than 40 (forty) points will not be recommended for program participation.
List of High-Traffic Roads*: State Highway or Major Collector-Rural (as defined by Whatcom County Engineering):

State Highway:
- Guide Meridian Road
- East Badger Road
- East Pole Road
- Grandview Road
- Blaine Road

Major Collector-Rural:
- East Axton Road
- West Axton Road
- Birch Bay Lynden Road
- Hannegan Road
- East Smith Road
- West Smith Road
- West Badger Road
- Portal Way
- Enterprise Road
- North Enterprise Road
- West Pole Road
- Haynie Road
- Sunrise Road
- Northwest Drive
- Vista Drive
- Hovander Road
- Mountain View Road
- Rainbow Road
- Kickerville Road (part)
- Lake Terrell Road
- Everson Goshen Road
- Hampton Road
- Van Buren Road
- H Street Road
- Sweet Road

*This list of roads is no longer needed when the proximity to high traffic roads' criteria from 2. "Site Evaluation" is removed.

*This is not a complete list. However, it includes most roads that apply to the PDR Program.
V. OVERVIEW OF PDR PROGRAM PROCEDURES

A. Selection Round Announcement, Outreach and Publicity

Step 1: The County shall begin each selection round by annually giving notice in one newspaper of general circulation in each area where eligible lands are located which may be acquired. The notice shall include the properties eligible to participate in that selection round, the application process and applicable timeframes and extensions.

The Administrator may identify each property with potential development rights within the twelve target priority consideration areas and provide written notification to the property owners.

B. Application and Ranking

Step 2: Voluntary pre-application screening. Interested property owners may meet with the County PDR Program Administrator (Administrator) to review their eligibility and special circumstances, if any.

Step 3: Application. An owner of land eligible for PDR Program participation submits and application for County acquisition of property or development rights. The application must be submitted on the form provided by the County, on or before the closing of the selection round.

Step 4: The Administrator reviews each application for completeness, determines if the subject property meets minimum eligibility criteria and assigns a preliminary score based upon the PDR site selection criteria.

Step 5: Upon closing of the selection round, the PDR Oversight Committee reviews PDR Program applications and prioritizes recommends proposed development rights acquisition utilizing the selection criteria. Recommendations for development right acquisition are prepared and forwarded to County Council to approve, deny, or recommend modification.

Step 6: County Council confirms, denies or modifies the ordered list of parcels for PDR acquisition and forwards the list to the Administrator for action.

Step 7: The Administrator estimates the number of appraisals that can be initiated based on available funds and chooses the top ranked parcels from the County Council’s list of parcels. The property owner is notified in writing of eligibility status.

Step 8: Property owners disputing their ranking may request a reconsideration of their ranking to the PDR Oversight Committee within 14 days after receiving written
notice. The Committee shall review the reconsideration request at the next regularly scheduled meeting. Special consideration will be given if applicant modifies the original offer to include a bargain sale. The PDR Oversight Committee may, at its discretion, change the site's rank, recommend the site for subsequent selection rounds, consideration, or deny the request.

C. Title

Step 98: The Administrator initiates a title search. Closing is conditioned on the resolution of all unapproved title exceptions, within the County's sole discretion, which may require the receipt of subordination agreements or payoff letter.

D. Negotiation-Pricing Estimate and Appraisal

Step 109: The Administrator or designee initiates the pricing estimation process using the formula developed by a consulting appraiser and periodically updated OR a preliminary estimate of value, and notifies the property owner of an estimated range of value within which the appraisal will likely fall. The Administrator or designee sends the applicant a letter of intent, including range of expected value. The letter calls for the signature of property owner(s), and spells out conditions under which costs for further due diligence and the appraisal must be reimbursed to the county if the property owner chooses to withdraw from the program within a specified period of time. Informal negotiation process with the property owner. At this time, the property owner may indicate a minimum expected value. However, the application may be denied if the administrator and the Oversight Committee determine the minimum value to be unstartable.

Step 10: The Administrator or designee proceeds to verify assumptions through official county processes, such as a formal Lot of Record and density determination, and conduct other due diligence as necessary (such as water rights research and Title research and clearing).

Step 11: Unless Council and the Executive specifically authorize an alternate approach to determine value, the Administrator commissions a full appraisal by a County authorized appraiser to appraise the development rights value of the land proposed for development rights sale. The development rights value is the difference between the market value of full ownership of the land, excluding buildings, and the agricultural value.

Step 12: The appraiser submits the completed appraisal (or the alternate determination of value is conducted and submitted) to the Administrator and the Oversight Committee for their review.

Step 13: The Administrator or designee meets with the property owner to review the appraisal (or alternate determination of value), state the offer, review the conservation easement provisions, agreement terms and conditions, and to answer the property owner's questions.
Step 14: If the property owner believes that the farmland has not been adequately appraised or valued, the owner may, within the time allowed in the selection round-schedule, commission an appraisal at the owner's expense.

E. Offer to Purchase Easement and Agreement

Step 15: A written offer to purchase development rights based on appraised or determined value is made to the property owner following budget approval authorization by the County Council, and approval by the County Executive.

Step 16: Within 30 days, the property owner accepts, rejects or makes a counter offer. Counter offers will be reviewed and evaluated by the Oversight Committee and the County's authorized appraiser.

Step 17: Property owners desiring to sell their development rights sign a Purchase and Sale Agreement.

F. Adjacent Property Owner Notification

Step 18: Neighboring property owners are notified that adjacent land is in the process of being preserved.

G. Approval

Step 19: Review materials are presented to the County Council-Executive for their review and approval, rejection, or recommendation for modification.

Step 20: Review materials are sent to other participating entities for partially or wholly funded conservation easements several days prior to any deadline.

I. Settlement

Step 21: Settlement will occur following County Executive Council approval of transaction terms and is contingent upon a title search and any other evidence, such as a land survey, that may be necessary to establish clear title.

Step 22: Payment will be in full at time of settlement unless the County and property owner agree to an installment sale.

Step 23: Checks are requested from the Finance Manager and settlement is scheduled within a week or two of approval. Federal or state money is dispersed according to federal or state regulation.

J. Recording

Step 24: The conservation easement will be recorded at the County Auditor's office. The County or its designee will monitor the properties under easement at least annually to ensure compliance with the easement.

Revised and adopted __________ 2013
VI. CONSERVATION EASEMENTS

A. Description

A conservation easement deed is a legally binding document, which is recorded by the County Auditor, forever restricting the property to agricultural and directly associated uses, and for which compensation may be paid. As an easement in gross in perpetuity, restrictions are binding upon the owner and future owners, and run with the land.

B. PDR Program Conservation Easements

At the time of acquisition of development rights from a participating property, a conservation easement is placed on the property permanently restricting development of the site and protecting/preserving the agricultural values associated with the site. The conservation easement must be signed by both the property owner(s) and the County Executive or his/her designee and recorded with the property records for the property. A model conservation easement deed is included in these guidelines as attachment D.

1. Conservation Easement Requirements

Conservation easements shall be on a form approved by the Whatcom County Prosecuting Attorney and shall meet the following basic requirements:
   a. The deed shall be in recordable form and contain an accurate legal description setting forth the metes and bounds of the farmland area subject to the easement;
   b. Restriction is granted in favor of Whatcom County, or if designated by the organizations as defined in RCW64.04.130;
   c. Restriction is granted in perpetuity, and shall bind existing and future property owners; and
   d. Unless specifically provided for, nothing in the restrictions shall be construed to convey to the public a right of access or use of the property, and the owner of the property, his/her heirs, successors and assigns shall retain exclusive right to such access or use subject to the terms of the easement.

2. Filing

After the conservation easement is signed and notarized, it must be recorded with the Whatcom County Auditor’s Office.

C. Conservation Easement Conveyance

Conservation easements may be either donated or sold, or a combination of both.

1. Conservation Easement Donation
a. A donation of a total parcel will not be subject to eligibility except as below in section c. Partial parcel donation shall be considered under the same rule as for development rights sales. Notwithstanding the eligibility of the property, acceptance of a fee interest or partial donation is within the discretion of the County Council.

b. Whatcom County will accept voluntary donations or bequests of agricultural development rights as perpetual easements in gross if meeting eligibility criteria (except priority area criteria) and within the discretion of the County Council.

c. All properties offered for development rights donation must meet the following minimum eligibility criteria:
   1. The PDR Oversight Committee will consider each offer on a case by-case basis, considering the property's consistency with current and future land uses, and
   2. The farm property must be at least 40 acres in size, and
   3. Be in agricultural use or has not been irrevocably devoted to a use inconsistent with agricultural uses, and that has a high potential for returning to commercial agriculture, and
   4. Consist primarily of productive agricultural soils (APO soils) and,
   5. Cannot be located within an Urban Growth Area.

2. Conservation Easement Sale
   a. Whatcom County will purchase perpetual conservation easements on qualified properties in accordance with the policies and procedures of the Whatcom County Agricultural Purchase of Development Rights Program, with Federal, State, County, and/or private funds and any combination thereof.
   b. All properties offered for conservation easement sale must meet minimum eligibility criteria as contained in Section III.
VII. OPERATIONAL PROCEDURES FOR ACQUIRING PDR EASEMENTS

A. Selection Schedule

In the first and second selection rounds, eligible farmland within the twelve target areas shall be eligible for purchase. Following the first two selection rounds, the County Council will determine whether other County farmland will be eligible to participate in the PDR Program. (See Section III A&B).

B. Selection-Round Announcement Outreach and Publicity

Each selection round shall begin by providing annually notice shall be published in one newspaper of general circulation. Application opening and closing dates, if any, will be determined by the PDR Oversight Committee. The Committee shall have the discretion to consider applications in rounds or individually on a rolling basis. If selection-round deadlines are extended, the Committee and will provide public notice of the extension.

C. Application and Ranking

1. Property owner(s) voluntarily submits an application(s) to the County during a publicized open selection round. The application must be submitted to the County on the form provided by the PDR Program, on or before the closing date stated in and according to the relevant selection-round public notice. Applicants are to include at a minimum:
   a. Name(s) and address(es) of the property owner(s) of the site;
   b. Legal description and parcel number(s);
   c. Copy of the property deed and title;
   d. Total acreage of farmland to be included in the PDR Program;
   e. Current land use and APO soils;
   f. Number of dwelling units;
   g. Description of the farming operation;
   h. Other information necessary to evaluate property eligibility; and
   i. Acknowledgement of intent to grant to Whatcom County a conservation easement in a form provided by the County.

2. The Administrator shall review each application to determine completeness and eligibility.

3. Upon closing of the application period, Applications meeting all minimum eligibility criteria shall be evaluated and scored by the administrator and Oversight Committee according to the site selection criteria. (See Section IV)

4. The PDR Oversight Committee shall provide the County Council with information and scoring of properties a recommended list ranking all eligible

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applications for conservation easement acquisition by the committee during the selection round. County Council shall make the final prioritization, approve or deny pursuit of conservation easement acquisitions on the parcels.

5. The Administrator shall then arrange appraisals (or alternate determination of value) of eligible farmland applicant properties in the priority order as determined by the County Council.

6. The PDR Oversight Committee and Administrator shall provide an annual update to the County Council discussing recommended purchases, possible program changes, and anticipated budget needs.

DC. Appraisal

1. Appraisals for eligible properties shall be conducted to determine the value of development rights of parcels in the order of its acquisition priority until acquisition funds are expended in the selection round.

1.a. The appraisals are to be made by an independent appraiser qualified to appraise agricultural land for development rights purchases. An appraiser is deemed qualified if he or she possesses a State of Washington certification as a State Certified General Real appraiser, MAI designation by the Appraisal Institute (or equivalent), and at least five years agricultural lands appraisal experience. Appraisers shall supply a narrative or UAAR form report, which contains information as required by the Uniform Standards of Professional Appraisal Practice (USPAP) and as specified in any contract with the County.

2.b. An appraisal report is an objective report of market facts. The appraisal report must estimate both the unrestricted fee market value of the land only, excluding the value of buildings, and the agricultural value of the land only, of which the difference is the development rights value.

3.c. Both values shall be based primarily on an analysis of comparable sales. If comparable sales data is not available for agricultural lands, the appraiser may use local farmland rental values or capitalized production values to determine the agricultural values of the land.

4.d. A description of the buildings or other improvements shall appear in the appraisal report; however, the buildings will not be valued and therefore will not be considered in determining the development rights value.

5.e. The appraiser shall report whether the subject property has any land use restrictions, public or private and/or physical attributes, which limit the developmental capability of the land.

6.f. The appraiser shall be advised that conservation easements are perpetual. The perpetual nature of the easement shall take precedence over any agricultural zoning status.
7-g. The appraisal shall be in writing and may be discussed with the owners prior to the submission of written offers.

8-h. If the property owner believes the property has not been adequately appraised, the owner may, within the time allotted in the selection round schedule, request that a review appraisal be made at the owner’s expense. This appraisal must be completed in accordance with the guidelines set forth herein. If the review (owner’s) appraisal is not completed within the allotted time, the application will be delayed to the following selection round for future committee consideration. If a review appraisal is completed, the appraisals will be reviewed by the County’s Appraiser. The County’s Appraiser in consultation with the Program Administrator and the PDR Oversight Committee will accept, modify or reject the review appraisal. The determination of the County’s Appraiser is final.

i. The maximum value of development rights purchased by the County shall be no more than the easement value contained in an appraisal report. The easement value is the difference between the farmland’s market-value before and after the voluntary conservation easement’s agricultural value.

9-2. Council and the Executive may specifically authorize an alternate approach to determine value in accordance with state and local laws, in which case the conditions of that approach would substitute for the appraisal guidelines as set forth in C.1., above.

ED. Title and Survey Issues

1. The Administrator shall request a title report confirming that applicant is the owner of the property and has unrestricted legal right to transfer the development rights (i.e. there must be clear title to transfer the property). The title report will be provided to the County Attorney for review.

2. All encumbrances (including but not limited to: liens, mortgages and judgments) against the property must be subordinated, satisfied or removed prior to development rights acquisition. Mortgage and/or lien holder subordination and releases may be required acknowledging that a conservation easement will be placed on the property and subordinating their interest in the property to the deed restriction.

3. At settlement for a County or joint development rights purchase, the PDR Oversight Committee or applicant shall provide a title insurance policy issued by a title insurance company authorized to conduct business in Washington State by the Washington State Office of Insurance Commissioner. The cost of such title insurance shall be a shared cost, with the county’s portion considered a cost incident to the development rights purchase and is a reimbursable expense from the County’s Conservation Futures Fund.

4. It is the property owner’s responsibility to survey (or provide a legal description that meets specific standards) any exceptions from the easement and any
graveyards or cellular towers that may be located on the property. It is the property owner's responsibility to provide a legal description for any commercial operation on the farm that is not incidental to the overall farming operation, in order to exclude it from the easement. Surveys shall be conducted by a licensed surveyor in accordance with state and federal regulations.

**FE. Development Rights Value and Purchase Price**

1. The maximum value of development rights purchased by the County shall be no more than the easement value contained in an appraisal report. The easement value is the difference between the farmland's market value before and after the voluntary conservation easement's agricultural value.

2. Development rights may only be purchased in perpetuity.

**GE. Recommendation of Development Rights Purchases by the PDR Oversight Committee**

1. The PDR Oversight Committee, in making recommendations concerning applications and purchase offers, shall consider the following:
   a. Evaluation according to the site selection criteria.
   b. Consistency with County Comprehensive Plan (and Rural and Agriculture zoning designations).
   c. Cost relative to total allocations and appropriations.
   d. Proximity to other land subject to agricultural protection easements.

2. Upon receiving the recommendations of the PDR Oversight Committee and the Administrator, the County Council-Executive shall review the recommendations and shall take final action to authorize or deny proposed purchase terms and offers, consistent with authorization by the County Council.

3. If a farm is approved for development rights purchase, the Administrator will meet with the property owner and review the terms, conditions and amount of the County's offer. A written offer will be provided to the property owner. Written notice shall also be provided to farmland not approved for development rights purchase during the current application round.

4. Within 30 days of receipt of a written offer from the County an applicant must indicate in writing which of the following actions they intend to pursue:
   a. Accept the offer.
   b. Reject the offer.
      1. Reject offer outright
         a. no further action
         b. participate in next round/future review
      2. Submit a counter offer within 90 days of written notice of offer by the County.
   c. Failure to notify the County within 30 days shall constitute rejection of the offer.
5. If the offer is accepted, the Administrator shall prepare a Purchase and Sale agreement. USDA or State Funds must be paid as lump sum. The method of payment shall be specified from the options listed below:
   a. Lump Sum
   b. Installment Purchase Agreement (IPA)
   c. Like-Kind Exchange
   d. Or a combination of the above

6. For development rights purchase utilizing the Installment Purchase Agreement (IPA) program, the County Council at settlement shall provide an opinion of legal counsel that the County's obligations to make installment payments of principal and tax-exempt interest over time are legal, valid, and binding. And that such payments are a general obligation of the County for which its full faith, credit, and taxing power are pledged. Interest paid by the County is exempt from federal income taxes.

7. All Agreements of Sale and Conservation Easements require the County Council's approval.

| HG. Grant of the Agricultural Protection Conservation Easement |

Before the purchase of development rights can be finalized, a conservation easement in a form approved by the County Attorney and consistent with the policies of the PDR Program Guidelines, must be placed on the property permanently restricting development of the site and preserving its agricultural values.

The principal interest of the County is to ensure that agricultural lands are preserved and subsequently stewarded in a manner that maintains and enhances their farmland values. There may be some instances where there is a public interest in another public entity or non-profit organization to hold the conservation easement, for continued stewardship and protection of the land. The County will consider:

1. The preferences of the donor or seller;

2. Administrative, monitoring, and enforcement issues associated with the conservation easement and the resources available to address these issues;

3. Requirement of Federal, State or County funding sources utilized to purchase development rights.

| HH. Development Rights Purchase Recommendations/Submission Requirements |

1. County Council: Each recommendation for development rights purchases with County funds, State funds, Federal funds or a combination of funds shall be presented to the County Council at a regularly scheduled public meeting.

2. Letters of Notification: Letters of notification for development rights purchases will be sent to adjoining property owners by the Administrator.
3. All eligible applications not selected for PDR Program participation may choose to be reviewed during the next application round period or withdrawn. Within 30 days following receipt of written notice from the county, the property owner must notify the administrator in writing requesting review in the next selection round period.
VIII. CONSERVATION FUTURES FUND

A. Intent

This fund was established in 1992 to be used solely to acquire right and interests in open space land, farm and agricultural land, and timber land, so as to protect, preserve, maintain, improve, restore, limit the future use of, or otherwise conserve the property for public use and enjoyment.

B. Fund Sources

This Conservation Futures Fund is funded by a real property tax applied to all real property within Whatcom County at a rate of six and one-quarter cents per $1,000 of assessed valuation determined by the county administration and county council.

C. Fund Source Accounts

Council shall annually consider an allocation of Conservation Futures Fund to be placed in a Purchase of Development Rights Account.

D. Installment Payment Fund

1. The intent of installment payment funds, which are established by the County, is to encumber and invest committed funds for which recipient property owners have elected annual installment payments for a period, which may vary according to the wishes of the property owner.

2. The full consideration of any transaction for which installment payments of five years or less have been elected shall be placed in the fund, less the amount of any first installment to be paid at settlement. This amount shall be invested and annual installment payments shall include the interest accrued.

3. Annual installment payments shall be made on or before January 20th of each year.

4. A property owner may enter into an Installment Purchase Agreement for fifteen (15) to thirty (30) years at an interest rate to be negotiated between the property owner and the County. The property owner will receive semi-annual interest payments that are tax exempt. Principal will be paid in one lump sum at the end of term. The property owner will also receive a security representing the Installment Purchase Agreement. The property owner may sell or assign this Agreement.

E. Public Expenditures

1. All public expenditures from the Conservation Futures Fund are subject to approval by Whatcom County Council and will be made in accordance with approved disbursement procedures.

Revised and adopted _______ 2013
2. Expenditures from the PDR Program Account shall be limited to interests in qualified agricultural land participating in Whatcom County's Agricultural Purchase of Development Rights Program, and other expenses necessary to the acquisition of agricultural conservation easements authorized under RCW 84.34.200-.240.

3. The annual appropriation to the PDR Program by the County Council shall be available for the calendar year in which the appropriation was made and or the subsequent calendar year.
APPENDIX A

Purchase of Development Rights Target Areas

Figure 1
APPENDIX B

Rural Study Areas

Whatcom County
-Rural Study Areas and Agricultural Zone

Figure 2
# APPENDIX C

## Soils List

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Revised and adopted __________ 2013

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APPENDIX D

Model Conservation Easement Deed

A sample Conservation Easement Deed based on the assumption of matching funds from the USDA-NRCS Farm and Ranch Lands Protection Program, is included in the following pages.
After Recording Return To:

Whatcom Land Trust
P.O. Box 6131
Bellingham, WA 98227

DOCUMENT TITLE: WHATCOM COUNTY CONSERVATION EASEMENT

GRANTOR: ________________________________

GRANTEES: WHATCOM LAND TRUST AND WHATCOM COUNTY

ABBR. LEGAL DESCRIPTION: P# __________ and P# __________, except rds.

AGRICULTURAL CONSERVATION EASEMENT DEED

This Conservation Easement Deed ("Deed") is made and entered into this ___ day of _____ 20___, by __________________ ("Grantor"), the WHATCOM LAND TRUST ("Trust"), and WHATCOM COUNTY, WASHINGTON ("County") ("Grantees"); and the United States Department of Agriculture, Natural Resources Conservation Service ("NRCS") acting on behalf of the Commodity Credit Corporation as its interest appears herein.

I. RECITALS.

The following recitals are a material part of this Easement.

A. Grantor is fee simple owner of real property (the "Protected Property") in Whatcom County, Washington, that is the subject of this Easement. Exhibit A is the legal description and Exhibit B is a site plan for that Protected Property, both of which are attached and incorporated herein by reference.

B. The Federal Farm and Ranch Lands Protection Program's purpose is to partially fund the purchase of conservation easements on land with prime, unique, or other productive soil for the purpose of protecting topsoil from conversion to nonagricultural uses (16 USC 3838h - 3838i). That Grantor acknowledges that $____ was provided by the United States Department of Agriculture (United States), through the Farm and Ranch Lands Protection Program, and thus entitles the United States to the rights identified herein.
C. While “Grantees” include the Whatcom Land Trust and Whatcom County, use of the term “Grantees” does not imply that joint approval is required to exercise Grantees’ rights and responsibilities under this Easement. Those rights and responsibilities may be independently exercised by any Grantee.

D. The Protected Property is approximately _____ acres and is currently farmed.

E. The Protected Property has significant agricultural value to Grantees and to the people of Whatcom County and the State of Washington. The agricultural values include productive soil types and agricultural infrastructure as described in Exhibit D.

F. Grantor and Grantees agree that the conveyance of rights and imposition of restrictions described in this Easement furthers the intent of Whatcom County Ordinance No. 2002-054, provided in Exhibit C, to preserve land for agricultural purposes and has substantial public benefits.

G. As owner of the Protected Property, Grantor has the right to convey the rights and restrictions contained in this Easement in perpetuity.

II. CONVEYANCE AND CONSIDERATION.

A. For the reasons stated above, in consideration of mutual covenants, terms, conditions, and restrictions contained in this Easement, and in consideration of payment of $_____ by Whatcom County and the United States to Grantor, Grantor hereby grants, conveys and warrants to Grantees a Conservation Easement in perpetuity over the Protected Property, consisting of certain rights and restrictions as defined in this Easement Deed.

B. This Easement Deed is a conveyance of an interest in real property under the provisions of RCW 64.04.130.

C. Grantor and Grantees intend that this Easement run with the land and that it shall be binding upon Grantor’s, successors and assigns in perpetuity.

III. PURPOSE.

The purpose of this Easement is to: (1) protect the present and future ability to use the Protected Property for agricultural purposes; (2) preserve the soil as a valuable resource and prevent activities that will impair the ability, now or in the future, to use the soil to produce food and fiber; (3) enable the Protected Property to remain in agricultural use for the production of food and fiber by preserving and protecting in perpetuity its agricultural values, character, use and
utility, and to prevent any use or condition of the Protected Property that would significantly impair or interfere with its agricultural values, character, use or utility. This statement of purpose is intended as a substantive provision of the Easement. Any ambiguity or uncertainty regarding the application of the provisions of this Easement will be resolved so as to further this purpose. The grant of this Easement will also serve the "conservation purpose" of farmland protection as identified in Section 170(h)(4)(A) of the Internal Revenue Code.

IV. RELATIONSHIP OF PARTIES.

A. Unless noted otherwise, Whatcom County and the Whatcom Land Trust share all rights and responsibilities of Grantees under this Easement. For purposes of administering, monitoring and enforcing the terms of the Easement, the Whatcom Land Trust is the lead Grantee, unless Grantor is notified otherwise. As the lead Grantee, the Whatcom Land Trust has authority to act alone and at its sole discretion in exercising all rights and responsibilities of Grantees under this Easement. Grantor shall treat the Whatcom Land Trust as its contact for all matters regarding this Easement. Whatcom County and the Whatcom Land Trust may jointly take enforcement action, or if the Whatcom Land Trust fails to enforce the terms of this Easement, Whatcom County may do so alone.

B. The Trust will consult the County regarding any violation of the Easement that threatens the purpose of this Easement as described in Section III. If a less serious violation is determined to have occurred, the Trust will report to the County the nature of the violation and the response to that violation by the Trust

C. The above Section IV.A. does not pertain to monitoring and enforcement of a conservation plan, the responsibility for which rests with the Natural Resource Conservation Service and Whatcom County as described in Section VIII A below.

V. RIGHT OF ENFORCEMENT.

Under this Conservation Easement, the United States, in conjunction with Whatcom Land Trust and Whatcom County, is granted the right of enforcement in order to protect the public investment. The Secretary of the United States Department of Agriculture (the Secretary) or his or her assigns, on behalf of the United States, may exercise this right of enforcement under any authority available under State or Federal law if the Grantees fail to enforce any of the terms of this Conservation Easement, as determined in the sole discretion of the Secretary.

VI. PERMITTED USES AND ACTIVITIES.
Grantor may:

A. Engage in the production of food and fiber and other uses and activities consistent with the purpose of this Easement so long as those uses or activities are not expressly prohibited in Section VII below.

B. Continue any use or activity not permitted by this easement at the time this Easement is signed provided it is not contrary to the purposes of this Easement and provided that such use or activity is described in this section.

C. Existing agricultural structures may be removed, maintained, expanded or replaced and new agricultural structures, and improvements used primarily for agricultural enterprises may be constructed by the Grantor on the Protected Property within the “Farmstead”, as defined in Section XII of this Easement, and shown on Exhibit B, so long as expansion or new construction does not exceed the area of impervious surfaces allowed in Section VII D. Agricultural structures may include, without limitation, offices, warehouses, temporary farm worker housing, livestock housing and related structures, equipment storage and maintenance facilities, facilities related to the processing and sale of farm products predominately grown on the Protected Property, so long as the structures' primary use is to support the agricultural activities on the Protected Property or agricultural activities on other property under the control of the Grantor.

D. New agricultural buildings, structures or improvements proposed for locations outside of “Farmstead Area” may be built or placed only with the written permission of the Grantee. Permission shall be granted only if the agricultural productive capacity and open space character of the Protected Property are not significantly impaired by the construction and use of such structures, disturbance to prime, unique and important soils is minimized and all structures individually and combined are consistent with the terms of this Easement. For the purposes of this section, temporary hoop-houses and temporary greenhouses with no foundation are not considered agricultural buildings, structures or improvements that require Grantee permission.

E. On the “Homesite”, as defined in Section XII of this Easement, and shown on Exhibit B, remove, maintain, remodel, and replace a single family residence and engage in any uses or activities that do not impair the ability to farm the remainder of the Protected Property in the present or future and that are not prohibited by Section VII below.

F. Plant trees on the Agricultural Land, as defined in Section XII of this Easement only as follows:
1. Maintain a woodlot not to exceed 2 acres for the production of firewood to be used on the Protected Property;

2. Plant Christmas trees and short rotation hardwoods not subject to the excise tax imposed by RCW 84.33, provided that adequate provision is made for the removal of trees, including stumps and roots, at the termination of the Christmas tree or short rotation hardwood farming operation.

3. [May add allowance for installation/maintenance of trees on riparian portion if applicable; according to CREP lease or BMPs.]

G. Install a small-scale wind power generator for the primary purpose of generating electric power for use on the Protected Property, provided however that incidentally generated excess power may be sold through the electric grid and further provided that Grantee must approve the scale and location of any such small-scale wind power generator prior to installation.

VII. PROHIBITED USES AND ACTIVITIES.

Unless specifically permitted by Section VI above, and as may be necessary to carry out those reserved rights, Grantor shall not engage in or permit any of the following activities on the Protected Property:

A. Use or activities inconsistent with the purpose of this Easement.

B. Legal or “de facto” division, subdivision, or partitioning of the land or the separate sale of any portion of the Protected Property, even if that portion of the Protected Property constitutes a separate legal parcel. This restriction does not prohibit minor boundary line adjustments with adjoining agricultural land, provided there is no net loss in total acreage and no net loss of quantity or quality of Agricultural Land to the Protected Property, provided that no new parcel may be created by such boundary line adjustments, and provided Grantor has obtained prior approval of the Trust Grantee. Any new land gained through a boundary line adjustment is subject to the terms of this Easement Deed.

C. Place or construct any residential building, structures, or other residential improvements of any kind except those utilized to house farm workers, and except that an existing single family structure within the “Homesite” may be improved, repaired or replaced and may be expanded only to the extent that it does not exceed 3,000 square feet total dwelling space.

D. Cover more than two percent (2%) of the area (approximately square feet) of the Protected Property with impervious surfaces, including, without limitation, asphalt, concrete, gravel, buildings, or ponds, except animal waste holding ponds.
E. Construct or expand non-agricultural structures or facilities beyond the boundaries of the “Homesite” as identified in the Baseline Data (Exhibit D) at the time of the signing of this Easement Deed.

F. Conduct any non-farm related commercial activity using over one percent (1%) or one acre of the Protected Property, whichever is less, unless that non-farm related commercial activity utilizes buildings existing at the time the Conservation Easement is signed and does not involve installation of facilities or expenditure of capital that would hinder the future use of buildings for agricultural purposes.

G. Conduct any use or activity that removes or degrades the soil or impairs the ability to farm the Protected Property except for conservation or best management practices as specified in the NRCS Field Office Technical Guide for Whatcom County.

H. Transfer, encumber, sell, relinquish, forfeit or otherwise separate water rights from title to the Protected Property, except that, with the consent of the County, water rights may be either leased for a period not to exceed ten years for beneficial use for agricultural activities only on land other than the Protected Property, or temporarily enrolled in the state Trust Water Right Program for a period not to exceed ten years, or conveyed to the County as provided in Section VIII below.

I. Mine or extract soil, sand, gravel, oil or other mineral, except that Grantor may extract soil, sand, and gravel solely for a permitted use on the Protected Property in a manner consistent with the conservation purposes of this easement. Such alteration shall not exceed two acres. Land subject to such alteration shall be returned to pre-activity conditions in accordance with baseline data set forth in Exhibit D.

J. Use off-road motor vehicles on the Protected Property or grant permission for such use except as necessary in the accomplishment of the agriculture, forestry, habitat management, law enforcement and public safety, or conservation uses of the Protected Property, provided that no use of motorized vehicles shall create impacts that are detrimental to the productivity of the soils on the Protected Property and the Purposes of this Easement Deed.

K. Grant easements or rights-of-way for power lines, gas lines, sewer lines, water lines, telecommunications towers, and wind farms.

L. Expand or intensify any use or activity existing at the time this Easement Deed is signed that is contrary to the purpose of this Easement or prohibited in this section.

VIII. WATER RIGHTS.
A. The Parties agree that the Water Rights must be maintained on the Protected Property to ensure the protection of the Agricultural Values.

B. Grantee Trust will include in Baseline Data a copy of the documentation and any information available from Grantor regarding the history of the claimed water rights. In its monitoring visits, Grantee Trust will inquire regarding the status and protection of water rights and will include in its Annual Monitoring Report any new information about water rights on the Protected Property and concerns, if any, about whether water rights are being protected. If at any time Grantee Trust believes that Grantor is not sufficiently informed about protecting Grantor’s water rights, Grantee Trust will refer Grantor to Whatcom County and will urge Grantor to take the Water Rights protection actions in Section VII. H.

C. Under this Easement, Grantor is obligated to take appropriate action to protect water rights on the Protected Property. Section IV. RELATIONSHIP OF PARTIES notwithstanding, Whatcom County, not the Trust, has responsibility for enforcing this Grantor obligation. If Grantor fails to take appropriate action to protect water rights on the Protected Property, Whatcom County may pursue remedies in accordance with Sections XIII and XIV of this Easement or may itself take appropriate action to protect the water rights.

D. If Grantor is unable or unwilling to take the Water Rights protection action cited in Section VII. H., and the Water Rights are under threat of abandonment, relinquishment, loss or forfeiture, Grantor shall convey ownership of said Water Rights to County for use on this property. Excess water not used on this Protected Property may be leased for agricultural activity elsewhere in Whatcom County.

IX. CONSERVATION PLAN.

A. As required by section 1238I of the Food Security Act of 1985, as amended, the Grantor, its successors, or assigns, shall conduct all agricultural operations on the Protected Property in a manner consistent with a Conservation Plan prepared in consultation with NRCS and approved by the Conservation District. This conservation plan shall be developed using standards and specifications of the NRCS Field Office Technical Guide and 7 CFR Part 12 that are in effect on the date this Easement Deed is executed. However, the Grantor may develop and implement a Conservation Plan that proposes a higher level of conservation and is consistent with NRCS Field Office Technical Guide standards and specifications. The Conservation Plan is incorporated into this Conservation Easement Deed by reference. NRCS shall have the right to enter upon the Protected Property, with advanced notice to the Grantor, in order to monitor compliance with the Conservation Plan.
In the event of noncompliance with the Conservation Plan, NRCS shall work with the Grantor to explore methods of compliance and give the Grantor a reasonable amount of time, not to exceed twelve months, to take corrective action. If the Grantor does not comply with the conservation plan, NRCS will inform the County of the Grantor’s noncompliance. The County shall take all reasonable steps (including efforts at securing voluntary compliance and, if necessary, appropriate legal action) to secure compliance with the conservation plan following written notification from NRCS that (a) there is a substantial, ongoing event or circumstance of noncompliance with the conservation plan, (b) NRCS has worked with the Grantor to correct such noncompliance, and (c) Grantor has exhausted its appeal rights under applicable NRCS regulations.

If the NRCS standards and specifications for highly erodible land are revised after the date of this Deed based on an Act of Congress, NRCS will work cooperatively with the Grantor to develop and implement a revised Conservation Plan. The provisions of this section apply to the highly erodible land conservation requirements of the Farm and Ranch Lands Protection Program and are not intended to affect other natural resources conservation requirements to which the Grantor may be or become subject.

B. For the purpose of this Conservation Easement, references and requirements relating to highly erodible lands do not apply to land over which this Conservation Easement is granted. There are no highly erodible lands on the Protected Property and none have been designated in Whatcom County.

X. RIGHTS CONVEYED TO GRANTEES.

To accomplish the purpose of this Easement, the following rights are conveyed to Grantees:

A. To accomplish the purpose of this Easement and to enforce specific rights and restrictions contained in the Easement Deed.

B. (1) To enter the land at least once a year, at a mutually agreeable time and upon notice to the Grantor, for the purpose of inspection and monitoring compliance with this Easement;

(2) To enter the land at such other times as necessary if the Trust has reason to believe that a violation of the Easement is occurring or has occurred, for the purpose of mitigating or terminating the violation and otherwise enforcing the provisions of the Easement. Such entry will be with prior notice as is reasonable under the circumstances.
C. In the event of uses or activities inconsistent with the purpose and provisions of this Easement, The Trust may obtain damages, an injunction, abatement, rescission, restoration and any other remedies available in law or equity.

D. Forbearance by The Trust to exercise any rights under this Easement in the event of a breach shall not be deemed to be a waiver of Grantees’ rights under the Easement.

XI. NO PUBLIC ACCESS.

This Easement provides no right of access to the general public.

XII. BASELINE DATA.

To establish the present condition of the Protected Property so that Grantees are able to monitor future uses and assure compliance with the terms of this Easement, Grantees will, at their expense, by the date of this Easement prepare baseline data sufficient to establish the condition of the Protected Property as of the signing of this Easement Deed. The baseline data may consist of reports, maps, photographs, and other documentation. Grantor and Grantee will execute a statement verifying that the baseline data accurately represents the condition of the Protected Property as of this time. Baseline data is contained in Exhibit D. The baseline data will delineate the Homesite, Farmstead and Agricultural Land as defined below.

The baseline data will specifically identify the extent of the Homesite, which includes that portion of the Protected Property used for residential buildings and buildings and uses accessory to residential buildings. The Homesite as delineated in the baseline data shall not exceed one acre, or the area actually used for residential purposes at the time this Easement is signed, whichever is greater.

The baseline data will specifically establish the extent of the Farmstead, which includes that portion of the Protected Property used for agricultural buildings, structures and improvements and those adjacent areas where future expansion of buildings, structures and improvements are contemplated.

The area not included in either the Homesite or Farmstead will be depicted under the category of Agricultural Land. Agricultural Land may include nonfarm areas such as critical areas and woodlands as well as cropland or grazing land.

XIII. INFORMAL DISPUTE RESOLUTION.

Grantor agrees to notify the Trust of any intended action that a reasonable person might believe would violate the terms of this Easement. Should a dispute arise concerning compliance with this Easement, Grantor and the Trust will meet within 15 days to discuss the matter in dispute. By
mutual agreement, the Grantor and the Trust may agree to refer the matter in dispute to mediation or arbitration under such rules as the parties may agree. If arbitration is pursued, the prevailing party will be entitled to such relief as may be granted, to a reasonable sum for its costs and expenses related to the arbitration, including fees and expenses of the arbitrator and attorneys. The Trust may, at its discretion, forgo these informal dispute resolution alternatives if continuation of the use or activity in dispute threatens the purpose of this Easement.

XIV. GRATTEES’ REMEDIES.

A. If Grantees determine that the Grantor is in violation of the terms of this Easement or that a violation is threatened, Grantees shall give written notice to the Grantor of such violation and request corrective action sufficient to cure the violation and to restore the Protected Property to its prior condition.

B. If Grantor does not take immediate action to cure the violation and restore the Protected Property, Grantees may institute legal proceedings for injunctive relief, abatement, restoration, or damages, including costs and attorneys’ fees reasonably incurred in prosecuting the action, and any other remedies available in law or equity.

C. In the event Grantees take legal action to enforce the terms of this Easement, the cost of restoring the Protected Property and Grantees’ reasonable enforcement expenses, including attorneys’ and consultants’ fees, shall be borne by the Grantor. In the event Grantees secure redress for an Easement violation without initiating or completing judicial proceedings, the cost of such restoration and reasonable expenses shall be borne by the Grantor. If Grantor ultimately prevails in any judicial proceedings initiated by Grantees to enforce the terms of this Easement, each party shall bear its own costs.

D. If Grantees, in their sole discretion, determine that circumstances require immediate action to prevent or mitigate significant damage in violation of this Easement, Grantees may immediately pursue their legal remedies without prior notice to Grantor as set forth in paragraph A.

E. Grantees may not recover damages or require restoration for damage to the Protected Property resulting from causes beyond Grantor’s control, such as fire, flood, storm, or earth movement that Grantor could not reasonably have anticipated or prevented.

XV. RESPONSIBILITY FOR COST AND LIABILITIES.

Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep and maintenance of the Protected Property, including maintenance
of adequate liability insurance and payment of all taxes. Grantees assume no affirmative obligations for the management, supervision or control of the Protected Property or any of the activities occurring on the Protected Property. Grantor shall indemnify Grantees and the United States, and hold Grantees and the United States harmless from all damages, costs (including, but not limited to, attorneys' fees and other costs of defense incurred by Grantees), and other expenses of every kind arising from or incident to any claim or action for damages including but not limited to, the release, use or deposit of any hazardous material (as defined in Section XIX. L. below) on the Protected Property, injury or loss suffered or alleged to have been suffered on or with respect to the Protected Property.

XVI. EXTINGUISHMENT AND TRANSFER.

A. If circumstances arise that render the purpose of this Easement impossible to accomplish, the Easement can be extinguished only by judicial proceedings and upon approval of the United States. In the event of such an extinguishment or the taking of the Protected Property by the exercise of the power of eminent domain, Grantor shall pay to Whatcom County and the United States in proportion to their contribution to the purchase price. At the time this Deed was recorded the United States contribution was 50 percent and Whatcom County's contribution was 50 percent. The amount owed to the United States and Whatcom County shall be determined by subtracting the fair market value of the Protected Property subject to this Easement from the fair market value of the Property unrestricted by this Easement, at the time of extinguishment or condemnation.

B. Grantor agrees to:

1. Incorporate the terms of this Easement by reference in any deed, lease, executory contract or other legal instrument by which it divests itself, or intends to divest itself, of any permanent or temporary interest in the Protected Property.

2. Give written notice to the Grantees of the transfer of any interest in the Protected Property no later than 45 days prior to the date of such transfer. Such notice shall include the name, address, and telephone number of the prospective recipient. Failure to provide such notice to the Grantees shall not limit the legal obligations imposed by this Easement on any recipient of an interest in the Protected Property.

C. Whatcom Land Trust's rights and interest in this Easement are assignable only to an agency or organization that is approved by United States and Whatcom County and authorized to hold conservation easements under RCW 64.04.130 or RCW 84.34.250, or otherwise qualified at the time of transfer under Section 170(h) of the Internal
Revenue Code of 1986, as amended. As a condition of such transfer, Grantees shall require that the transferee exercise its rights under the assignment consistent with the purpose of this Easement. Grantees shall notify Grantor in writing in advance of such an assignment. The failure of Grantees to give such notice shall not affect the validity of such assignment, nor shall it impair the validity of this Easement or limit its enforceability.

XVII. AMENDMENT.

Upon approval of the United States, Grantor and all Grantees may agree to amend this Easement provided that such an amendment does not diminish the effectiveness of this Easement in carrying out its purpose and that the result of the amendment is to strengthen the effectiveness of the Easement.

XVIII. SUBORDINATION.

Any mortgage or lien arising after the date of this conservation easement Deed shall be subordinated to the terms of this easement, substantially in the form of the instrument attached hereto as Exhibit F.

XIX. GENERAL PROVISIONS

A. Notices.
Any notice under this Conservation Easement Deed must be in writing and be personally delivered, delivered by recognized overnight courier service, given by mail or via facsimile. E-mail transmission of notice shall not be effective. All notices must be addressed to the parties at the following addresses, or at such other addresses as the parties may from time to time direct in writing:

Grantor: ____________________________

Grantee, Trust: Whatcom Land Trust
PO Box 6131
100 Central Ave
Bellingham, WA 98225
Grantee, County: Whatcom County
Attn: Agricultural PDR Administrator
5280 Northwest Drive
Bellingham, WA 98226

USDA-NRCS: USDA-NRCS
316 West Boone Avenue
Spokane, WA 99201

Any notice will be deemed to have been given, when personally delivered, and if
delivered by courier service, one business day after deposit with the courier service, and
if mailed, two business days after deposit in the U.S. mail, and if delivered by facsimile,
the same day as verified.

B. Controlling Law.
The interpretation or performance of this Easement shall be governed by the laws of the
State of Washington. Any legal proceeding regarding this Easement shall be initiated in
Whatcom County Superior Court.

C. Liberal Construction.
Any general rule of construction to the contrary notwithstanding, this Easement shall be
liberally construed in favor of the grant to effect the purpose of this Easement and the
policy and purpose of RCW 64.04.130 and Chapter 84.34 RCW and Whatcom County
Ordinance 2002-054. If any provision in this instrument is found to be ambiguous, an
interpretation consistent with the purpose of this Easement that would render that
provision valid shall be favored over an interpretation that would render it invalid.

D. Severability.
If any provision of this Easement, or its application to any person or circumstance, is
found to be invalid, the remainder of the Easement, or its application of such provision to
persons or circumstances other than those to which it is found to be invalid, as the case
may be, shall not be affected.

E. Entire Agreement.
This instrument sets forth the entire agreement of the parties with respect to the Protected
Property and supersedes all prior discussions, negotiations, understandings, or
agreements relating to the Property, all of which are merged into this Easement.

F. No Forfeiture.
Nothing contained in this Easement will result in a forfeiture or revision of Grantor's title
in any respect.

G. Warranty of Good Title.
Grantor warrants that Grantor has good title to the Protected Property; that the Grantor has the right to convey this conservation easement; and that the Protected Property is free and clear of any encumbrances other than those listed below.

H. **Grantor-Grantees.**
The terms “Grantors” and “Grantees,” wherever used in this Easement, and any pronouns used in their place, shall be held to mean and include respectively the above named Grantor, its, successors, and assigns, and the above-named Grantees, their successors and assigns.

I. **Successors and Assigns.**
The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties to this Easement and their respective, successors, and assigns, and shall continue as a servitude running in perpetuity with the Protected Property.

J. **Federal Enforcement.**
In the event that the Grantees fail to enforce the terms of this Easement as determined in the sole discretion of the Secretary of the United States Department of Agriculture ("Secretary"), the Secretary, his or her successors and assigns shall have the right to enforce the terms of the Easement through any and all authorities available under Federal or State law. In the event that Grantees attempt to terminate, transfer or otherwise divest themselves of rights, title or interest in the Easement or extinguish the Easement without prior consent of the Secretary, all right, title, or interest in this Easement shall become vested in the United States of America.

K. **General Indemnification**
Grantor shall indemnify and hold harmless Grantees, their employees, agents and assigns for any and all liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions and costs of actions, sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorney’s fees and attorney’s fees on appeal) to which Grantees may be subject or incur relating to the Protected Property, which may arise from, but is not limited to, Grantor’s negligent acts or omissions or Grantor’s breach of any representation, warranty, covenant, agreements contained in this Conservation Easement Deed, or violations of any Federal, State, or local laws, including all Environmental Laws.

L. **Environmental Warranty**
Grantor warrants that it is in compliance with, and shall remain in compliance with, all applicable Environmental Laws. Grantor warrants that there are no notices by any governmental authority of any violation or alleged violation of, non-compliance or alleged non-compliance with or any liability under any Environmental Law relating to the
operations or conditions of the Protected Property. Grantor further warrants that it has no actual knowledge of a release or threatened release of Hazardous Materials, as such substances and wastes are defined by applicable federal and state law.

Moreover, Grantor hereby promises to hold harmless and indemnify the Grantees against all litigation, claims, demands, penalties and damages, including reasonable attorneys' fees, arising from or connected with the release or threatened release of any Hazardous Materials on, at, beneath or from the Protected Property, or arising from or connected with a violation of any Environmental Laws by Grantor or any other prior owner of the Protected Property. Grantor's indemnification obligation shall not be affected by any authorizations provided by the Trust, the County, or the United States to Grantor with respect to the Protected Property or any restoration activities carried out by the Trust or the County at the Protected Property; provided, however, that Grantee shall be responsible for any Hazardous Materials contributed after this date to the Protected Property by Trust or the County.

"Environmental Law" or "Environmental Laws" means any and all Federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, guidelines, policies or requirements of any governmental authority regulating or imposing standards of liability or standards of conduct (including common law) concerning air, water, solid waste, hazardous materials, worker and community right-to-know, hazard communication, noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection and similar environmental health, safety, building and land use as may now or at any time hereafter be in effect.

"Hazardous Materials" means any petroleum, petroleum products, fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials and any other element, compound, mixture, solution or substance which may pose a present or potential hazard to human health or the environment.

XX. SCHEDULE OF EXHIBITS.

A. Legal Description of Property Subject to Easement
B. Site Map
C. Ordinance # 2002-054
D. Baseline Data
E. Water Rights
F. Subordination Agreement example
TO HAVE AND TO HOLD unto Grantees and the United States of American, and their successors, and assigns forever.
IN WITNESS WHEREOF, the undersigned Grantor has executed this instrument this ___ day of ____________, 20____.

__________________________
Grantor

STATE OF WASHINGTON    )
COUNTY OF WHATCOM     )
 ) ss.

I certify that I knew or have satisfactory evidence that ___________________________ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the act of ___________________________ to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _______________________

__________________________
Notary Public
Print Name _______________________
My commission expires ________________

(Use this space for notarial stamp/seal)
WHATCOM COUNTY does hereby accept the above Agricultural Conservation Easement Deed.

Dated: ________________

Grantee

By ___________________

Pete Kremen, County Executive

Approved as to Legal Form:

By ___________________

Senior Civil Deputy Prosecuting Attty

STATE OF WASHINGTON  
COUNTY OF WHATCOM  

) ss.

I certify that I know or have satisfactory evidence that __________________ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: ____________________

Notary Public
Print Name ____________________
My commission expires ________________

(Use this space for notarial stamp/seal)
ACCEPTANCE OF PROPERTY INTEREST BY THE NATURAL RESOURCES CONSERVATION SERVICE

The Natural Resources Conservation Service, an agency of the United States Government, hereby accepts and approves the foregoing conservation easement deed, and the rights conveyed therein, on behalf of the United States of America.

Authorized Signatory for the NRCS  __________________________  Date

State of __________________________
County of __________________________

On this ___ day of __________, 20___, before me, the undersigned, a Notary Public in and for the State, personally appeared ______________________ known or proved to me to be the person whose signature appears above, and who being duly sworn by me, did say that he is the Contracting Officer of the Natural Resources Conservation Service, United States Department of Agriculture, is authorized to sign on behalf of the agency, and acknowledged and accepted the rights conveyed by the deed to be his voluntary act and deed.

In witness whereof, I have hereunto set my hand and official seal the day and year first above written.

Notary Public for the State of Washington
Residing at __________________________
My Commission Expires __________________________

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The WHATCOM LAND TRUST, a Washington nonprofit corporation, does hereby accept the above Agricultural Conservation Easement Deed.

Dated: __________________________

By __________________________

Its __________________________

STATE OF WASHINGTON  
) ss.
COUNTY OF WHATCOM  

I certify that I know or have satisfactory evidence that __________________________ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the __________________________ of __________________________ to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: __________________________

Notary Public
Print Name
My commission expires __________________________

(Use this space for notarial stamp/seal)
**TITLE OF DOCUMENT:** Appointment to the American’s With Disabilities Act (ADA) Compliance Committee

**ATTACHMENTS:** Application for Appointment

**SEPA review required?** | ( ) Yes | ( ) NO | **Should Clerk schedule a hearing?** | ( ) Yes | ( ) NO
--- | --- | --- | --- | --- | ---
**SEPA review completed?** | ( ) Yes | ( ) NO | **Requested Date:** |

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

County Executive Jack Louws requests confirmation of his appointment of Robert Wunschel to serve on the American’s With Disabilities Act (ADA) Compliance Committee.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

<table>
<thead>
<tr>
<th>Related County Contract #:</th>
<th>Related File Numbers:</th>
<th>Ordinance or Resolution Number:</th>
</tr>
</thead>
</table>

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: [www.co.whatcom.wa.us/council](http://www.co.whatcom.wa.us/council).
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY AND COMPLETE ALL ITEMS

Name: ROBERT T WUNSCHIEL ____________________________ Date: 3/8/13

Street Address: 2500 KING STREET _________________________

City: BELLINGHAM ______________________________ Zip Code: 98225

Mailing Address (if different from street address): ________________________________

Day Telephone: 360-671-6388 Evening Telephone: SAME Cell Phone: 360-739-8277

E-mail address: ISOHIC@BQOB@EARTHLINK.NET ________________________________

1. Name of board or committee—please see reverse: ADA COMPLIANCE COMMITTEE

2. You must specify which position you are applying for. Please refer to vacancy list. N/A

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying? (If applicable, please refer to vacancy list.) Yes ( ) No ( )

4. Which Council district do you live in? One ( ) Two ( ) Three ( )

5. Are you a US citizen? Yes ( ) No ( )

6. Are you registered to vote in Whatcom County? Yes ( ) No ( )

7. Have you ever been a member of this Board/Commission? Yes ( ) No ( )
   If yes, dates: ________________________________

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? Yes ( ) No ( )
   If yes, please explain: ________________________________

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education. I AM A RETIRED NAVY, 100% DISABLED VETERAN TURNED ANTHROPOLOGIST (SEE ATTACHED CV) INTERESTED IN DISABILITY ACCESS ISSUES WITHIN OUR COMMUNITY. I AM VERY FAMILIAR WITH STATE AND FEDERAL ADA ACCESS GUIDELINES AND REGULATIONS, WHICH FORMED THE BASIS OF MY 200+ PAGE MA THESIS ON BARRIERS TO INCLUSION FOR PERSONS WITH PHYSICAL IMPAIRMENTS IN HIGHER EDUCATION.

10. Please describe why you’re interested in serving on this board or commission: TO LEAD MY EXPERIENCE & EXPERTISE TO ACCESS ISSUES WITHIN WHATCOM COUNTY

References (please include daytime telephone number): DANIEL ROBINSON, PHD, 650-4798; JOAN STEVENSON, PHD, 650-1235; BETH ZEYI, PHD, 425-259-8920

Signature of applicant: ________________________________

THIS IS A PUBLIC DOCUMENT: As a candidate for a public board or commission, the above information will be available to the County Council, County Executive, and the public. All board and commission members are expected to be fair, impartial, and respectful of the public, County staff, and each other. Failure to abide by these expectations may result in revocation of appointment and removal from the appointive position.
Curriculum Vitae
Robert Timothy Wunschel

Current Address:
2500 King Street
Bellingham, WA 98225
(360) 671-6338 (Home); (360) 739-8277 (Cell)
bohica@earthlink.net; wunsch@students.wwu.edu

Education:

Master of Arts, Anthropology; December 2011, Western Washington University, Bellingham, WA

Master of Arts, Rehabilitation Counseling; discontinued, February 2007, Western Washington University, Mount Lake Terrace, WA

Bachelor of Arts (Cum Laude), Anthropology; minor: Psychology, August 2006 Western Washington University, Bellingham, WA

Associate of Arts and Sciences (with Honors, Honors Program); August 2006, Whatcom Community College, Bellingham, WA

Honors/Affiliations:
- Recipient, 2006 - 2007 Rehabilitation Services Administration (RSA) Scholarship Award
- Recipient, 2005 - 2006 Western Washington University Department of Anthropology Taylor/Anastasio Undergraduate Research Award
- Member, American Anthropological Association (AAA)
- Member, Society for Applied Anthropology (SAAA)
- Member, Golden Key International Honor Society
- Member, Honor Society of Phi Kappa Phi
- Member, Psi Chi International Honor Society in Psychology
- Member, Phi Theta Kappa International Scholarship Order
- Member, Whatcom Human Rights Taskforce (WHRTF)
- Member, Western Washington University Disability Advisory Committee (DAC)
- Member, Disabled American Veterans (DAV)

Research Interests:
- Physical/societal accessibility for persons with disabilities at postsecondary institutions: Canada/US
- Immigration, the rise of nationalism, and border vigilantism: Canada/Mexico/US
- The impact of international borders on indigenous populations: Canada/Mexico/US
- Double jeopardy: Minority persons with disabilities: Canada/US
- Protected categories of people and Civil Rights laws: Canada/US

Related Experience:
- Thesis, “Thinking Outside the Boxes: Barriers to Inclusion for Persons with Physical Impairments in Higher Education”
- Fieldwork/research project, “Minuteman Project,” northern US/Canadian border region, awarded 2005 - 2006 Taylor/Anastasio Undergraduate Research Award
- Museology internships (education & exhibits) Whatcom Museum of History and Art, Bellingham, WA
- Facilitator, Participatory Action Research (PAR) project, ReSources and Bellingham/Seattle Re-Stores, Bellingham and Seattle, WA
- Ethnographer, research project, Bellingham/Seattle Re-Stores, Bellingham, WA
- Archaeological survey project, Portage Island (Lummi Nation), Whatcom County, WA

Other Experience:
- US Navy, Retired (air traffic controller & aviation maintenance data analysis supervisor)
**SUPPLEMENTAL BUDGET REQUEST #5**

**SEPA review required?** ( ) Yes ( X ) No
**SEPA review completed?** ( ) Yes ( X ) No

**Should Clerk schedule a hearing?** ( ) Yes ( X ) No

**Requested Date:**

---

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Supplemental #5 requests funding from the General Fund:

1. To appropriate $4,604 in Cooperative Extension to fund completion of 2012-2013 Strengthening Families program.  
2. To re-appropriate $73,488 in Non Departmental to fund the completion of the Lake Whatcom Reconveyance project.  
3. To appropriate $12,000 in Parks and Recreation to fund Hovander house air quality improvements from donation proceeds.  
4. To appropriate $8,000 in the Sheriff Department to fund Crisis Negotiation Team training.  
5. To appropriate $5,847 in the Sheriff Department to fund completion of 2012-2013 Boating Safety Program. Public Utilities Improvement Fund:  
6. To appropriate $46,594 in AS Facilities to fund arbitration settlement of Courthouse roofing project.

---

**COMMITTEE ACTION:**

---

**COUNCIL ACTION:**

---

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**
ORDINANCE NO.

AMENDMENT NO. 5 OF THE 2013 BUDGET

WHEREAS, the 2013-2014 budget was adopted November 20, 2012; and,
WHEREAS, changing circumstances require modifications to the approved 2013-2014 budget; and,
WHEREAS, the modifications to the budget have been assembled here for deliberation by the Whatcom County Council.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the 2013-2014 Whatcom County Budget Ordinance #2012-048 is hereby amended by adding the following additional amounts to the 2013 budget included therein:

<table>
<thead>
<tr>
<th></th>
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<th>Revenues</th>
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</thead>
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<td>General Fund</td>
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<tr>
<td>Cooperative Extension</td>
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<tr>
<td>Non Departmental</td>
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<td>-</td>
<td>73,488</td>
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<tr>
<td>Parks &amp; Recreation</td>
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<tr>
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<td>Total General Fund</td>
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<td>73,488</td>
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<tr>
<td>Public Utilities Improvement Fund</td>
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<td>46,594</td>
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<tr>
<td>Total Supplemental</td>
<td>150,533</td>
<td>(30,451)</td>
<td>120,082</td>
</tr>
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</table>

ADOPTED this ____ day of __________________, 2013.

ATTEST:

Dana Brown-Davis, Council Clerk

Kathy Kershner, Chair of the Council

APPROVED AS TO FORM:

Civil Deputy Prosecutor

( ) Approved     ( ) Denied

Jack Louws, County Executive

Date: ___________________________

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

I:\BUDGET\SUPPLS\2013_Suppl\Supplemental #5-2013.doc
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<th>Department/Fund</th>
<th>Description</th>
<th>Increased Expenditure (Decrease)</th>
<th>(Increased) Revenue</th>
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<tr>
<td>Non Departmental</td>
<td>To reappropriate funding for completion of the Lake Whatcom Reconveyance project</td>
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<tr>
<td>Parks &amp; Recreation</td>
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<td>(12,000)</td>
<td>-</td>
</tr>
<tr>
<td>Sheriff</td>
<td>To fund Crisis Negotiation Team training</td>
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<td>(8,000)</td>
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<tr>
<td>Sheriff</td>
<td>To fund completion of 2012-2013 Boat Safety program</td>
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<td>(5,847)</td>
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<td>(30,451)</td>
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<tr>
<td>Public Utilities Improvement Fund</td>
<td>To fund arbitration settlement on Courthouse roofing project</td>
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<td>46,594</td>
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<td>Total Supplemental</td>
<td></td>
<td>150,533</td>
<td>(30,451)</td>
<td>120,082</td>
</tr>
</tbody>
</table>
Supplemental Budget Request

Cooperative Extension

Fund 1  Cost Center 2003  Originator: Drew Betz
Expenditure Type: One-Time  Year 1 2013  Add'l FTE  Add'l Space  Priority 1

Name of Request: 2013 Strengthening Families Program

X

Department Head Signature (Required on Hard Copy Submission) Date

3/25/13

<table>
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<tr>
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<td>($4,604)</td>
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</tbody>
</table>

Request Total  $0

1a. Description of request:

Strengthening Families Program is a series of 7 classes for families with 10-14 year old youth. Each class has 3 segments. Parents and youth meet separately for an hour and then the families meet together for an hour. A community meal is served to start the program and child care is provided by volunteers for younger children. The model is internationally recognized as a best practice for adolescent substance abuse prevention and also the reduction of other anti-social behavior. The class focuses on increasing positive parenting skills, parent-youth communication and peer resistance skills in the youth. There is a strong focus on setting goals for future and family problem solving.

This request will fund one additional 7 week series in Spanish. It will be in the Bellingham School District. This is based on a contract with Whatcom County Health Department implemented July 1, 2011. This money is carried over from the 2012 budget.

1b. Primary customers:

Families with 10-14 year old children who live in the service area.

2. Problem to be solved:

This program addresses family management issues and youth substance abuse prevention as identified areas of concern by the county substance abuse prevention plan and is part of the State Prevention Redesign Initiative. The Health Department selected the sites.

3a. Options / Advantages:

There are no alternatives to this high quality program in Whatcom County. This program has a proven track record here and families trust its quality.

3b. Cost savings:

Washington Public Policy Institute and the Prevention Research Center at Penn State University consider $6000 per participating youth a reasonable estimate for cost savings from substance abuse related crimes over a lifetime. We anticipate that 25-30 youth will compete the program, resulting in a possible savings of up to $180,000 for this program in a six month period.

Monday, March 25, 2013
Supplemental Budget Request

Cooperative Extension

| Fund 1 | Cost Center 2003 | Originator: Drew Betz |

4a. Outcomes:
We will measure the following:

1. Weekly attendance for all participants
2. Pre and post program measures for all adults and youth participating
3. Implementation details, costs of meals, volunteer time, etc.
4. Demographics of the participants

4b. Measures:
All of our evaluation data is sent to the state SFP office at WSU for analysis upon completion of the program. An outcome report is prepared for each series and an aggregated report is completed at the end of the 3 classes. The demographic data and attendance is entered onto a data management website by our coordinator as required by the contract with the Health Department. That data is entered monthly while the services are being delivered.

5a. Other Departments/Agencies:
Whatcom County Health Department funds this program to support the county Substance Abuse Prevention Plan. Our partners for the year are Ferndale Community Resources, Ferndale School District and Bellingham School District. Families in each program will provide positive impact on their own kids and the youth who associate with them. It will reduce negative behaviors and support pro-social behavior in parents and youth in and out of school.

5b. Name the person in charge of implementation and what they are responsible for:
Isabel Meaker, Bellingham School District coordinator and site coordination.

6. Funding Source:
Whatcom County Health Department. This agreement was initiated July 1, 2011 and ends June 30, 2013. This supplemental request gives us the authority to spend the remainder of the funds by the end of the funding cycle. This money request is from funds carried over from the 2012 budget.
MEMORANDUM

To: Whatcom County Council Members
From: Jack Louws, County Executive
Date: March 21, 2013
Subject: Supplemental Budget Request
Lake Whatcom Reconveyance Reappropriation

Attached is a Supplemental Budget Request for your consideration and approval.

Background
In 2009 Whatcom County approved funding and entered into an interagency agreement with the Department of Natural Resources (DNR) in preparation of a reconveyance/transfer of forestlands in the Lake Whatcom Watershed to Whatcom County, including reviews, administrative staff costs, land surveys, and similar expenses associated with the project.

This is a request for a reappropriation of the funds required to complete the terms of the agreement between Whatcom County and DNR for those services contracted or provided by the State.

Funding Source
General Fund with reimbursement by Conservation Futures upon completion and approval by the County Council.
Supplemental Budget Request

Executive

Suppl ID # 1466  Fund 1  Cost Center 4540  Originator: Linda Kasper

Expenditure Type: One-Time  Year 1 2013  Add'l FTE □  Add'l Space □  Priority 1

Name of Request: Lake Whatcom Reconveyance Reappropriation

X 3/28/13

Department Head Signature (Required on Hard Copy Submission)  Date

Costs:

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<thead>
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<tr>
<td>Request Total</td>
<td></td>
<td>$0</td>
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</table>

1a. Description of request:
This request is for reappropriation of funding for payment of services rendered by the State of Washington Department of Natural Resources (DNR) in the preparation of a reconveyance - transfer of forestlands in Lake Whatcom watershed to Whatcom County. In 2009 Whatcom County approved funding and entered into an interagency agreement with DNR (Contract #200911002). These funds are required to complete the terms of the agreement between the County and DNR for those services contracted or provided by the State, including reviews, administrative staff costs, land surveys and similar expenses associated with the project.

1b. Primary customers:
Over 50% of County residents get their drinking water from lake Whatcom. This project is intended to assist in providing added protection for the lake's watershed while providing passive recreational opportunities and connectivity to Park and Recreation facilities around the lake.

2. Problem to be solved:
This is a request for appropriation of funds per the County's administrative policy and is required due to this project spanning multiple budget years.

3a. Options / Advantages:
The County has fiscal responsibility per the terms of the interagency agreement.

3b. Cost savings:
This is a reappropriation of funds at the approved funding level.

4a. Outcomes:
If approved by County Council, it is expected that the transaction will close in late 2013.

4b. Measures:
The County will assume ownership of approximately 8,844 acres of forest land and one mile of shoreline around Lake Whatcom.

5a. Other Departments/Agencies:
Yes, the Washington State Department of Natural Resources. This is a collaborative project between Whatcom County and the DNR per an existing agreement. DNR has completed or is in the process of completing a number of tasks in which Whatcom County has agreed to reimburse that agency for their expenses. Funding will allow the continuation of this agreement and the fulfillment of the County's obligations.

5b. Name the person in charge of implementation and what they are responsible for:
Paul McFarland, Lands Transaction Manager, NW Region, Washington Department of Natural Resources.
Supplemental Budget Request

Executive

<table>
<thead>
<tr>
<th>Fund 1</th>
<th>Cost Center 4540</th>
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<tbody>
<tr>
<td>Suppl ID # 1486</td>
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</table>

Status: Pending

Resources. Project Manager.

6. **Funding Source:**

General Fund with reimbursement by Conservation Futures upon completion and approval by the County Council.
MEMORANDUM

TO: Jack Louws, Executive
FROM: Michael McFarlane, Director
DATE: March 22, 2013
RE: Attached Supplemental Budget Request- Hovander House Air Quality Improvements

Attached is a supplemental budget request in the amount of $12,000 to be funded from a restricted donor fund established at Whatcom Park & Recreation Foundation to improve air quality, ventilation, and humidity at Hovander Homestead House.

The improvements will result in improved air quality and indoor environment for visitors, staff, volunteers, and docents at Hovander House and help to preserve an extensive collection of period furnishings and historical artifacts that are on display.

Additional information is included in the supplemental budget request.
Supplemental Budget Request

Parks & Recreation

Supp'l ID # 1405  |  Fund 1  | Cost Center 6317  | Originator: Erik Axelson

Expenditure Type: One-Time  | Year 1 2013  | Add'l FTE □  | Add'l Space □  | Priority 1

Name of Request: Hovander House Air Quality Improvement

X [Signature]  3-27-13
Department Head Signature (Required on Hard Copy Submission)  Date

<table>
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<tr>
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<td><strong>Request Total</strong></td>
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</tbody>
</table>

1a. Description of request:

Hovander House is on the National Register and operates seasonally as a living exhibit of farm life dating to the first decade of the 20th century. The historic home has an inventory of thousands of historic artifacts on display. Depending on the weather, the main floor of the uninsulated house can be extremely cold or feel clammy, and in summer the second floor attic is often stiflingly hot. Air circulation is problematic.

Further, each spring a colony of bats has taken up residence in the upper level of the attic space. Guano from this seasonal colony is entirely captured to protect visitors and artifacts by a dropped ceiling plenum lined with plastic sheeting, but air quality and ventilation for visitors and volunteers is a major concern. While bats are quite beneficial in the surrounding environment, they can become a nuisance and even a health hazard inside a periodically occupied historic house.

This request is to fund a $12,000 project from a fund established by a donor to Whatcom Park & Recreation Foundation to improve overall air quality, humidity, and environmental conditions at Hovander House. The budget request will fund these improvements:

(a) Exclude bat entry to attic area by sealing openings, providing inhospitable light and air movement in the upper attic, and pilot testing of Transsonic PRO sonic and ultrasonic bat repeller; $1,600

(b) Installation of 24" 2000 CFM exhaust roof ventilator in attic using an existing roof hatch; $1,900

(c) Provide commercial/industrial portable dehumidifier with automatic condensate pump; $2,800

(d) Purchase of period-style pedestal fans for improved air circulation on main floor; $2,800

(e) Upgraded electric service; $2,900

1b. Primary customers:

Park visitors, including small groups, tour the house. Our volunteer docents are on site four days per week during the park season (May-September).

2. Problem to be solved:

Presence of bats (and resulting bat guano) in the upper attic exacerbates endemic air quality issues. Bat exclusion program and installation of attic exhaust fan will remove and exhaust from the structure particulates and other airborne pollutants, improving both air quality in the entire house and reducing summer attic temperatures by convecting warmer air out. Use of period-style fans on the main floor will
Supplemental Budget Request

Status: Pending

Parks & Recreation

<table>
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<th>Suppl ID #</th>
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<tbody>
<tr>
<td>1495</td>
<td></td>
<td>6317</td>
<td>Erik Axelson</td>
</tr>
</tbody>
</table>

enhance air movement and facilitate air movement to the attic exhaust fan. With the use of the dehumidifier, humidity and potential mold growth will be inhibited. These improvements will provide a more comfortable environment in the house for docents, and visitors while preserving the historical exhibits and artifacts.

3a. Options / Advantages:
We are implementing this project to provide significantly improved air quality for visitors, staff, volunteers and docents and provide protection to the collection of artifacts.

3b. Cost savings:
This project will be funded by a restricted donation deposited at Whatcom County Park & Recreation Foundation.

4a. Outcomes:
Bat exclusion and ventilation improvements can be installed in the first half of 2013, prior to the prime visitation season for Hovander House that begins in May.

4b. Measures:
When these improvements are made, Hovander House will feature a less extreme and more healthful indoor environment. This positive change should provide significantly improved air quality and comfort conditions for visitors, staff, volunteers, and docents. The improvements will provide additional protection to historical furnishings and artifacts.

5a. Other Departments/Agencies:
None

5b. Name the person in charge of implementation and what they are responsible for:
Erik Axelsson, Parks Operations Manager.

6. Funding Source:
Whatcom County Parks & Recreation Foundation fund transfer from restricted donation for Hovander House air quality and ventilation improvements.
Memorandum

TO: Jack Louws, County Executive
FROM: Sheriff Bill Elfo
DATE: March 25, 2013
SUBJECT: Supplemental Budget ID# 1496
2013 Boat Safety Grant 2012-2013

The attached Supplemental Budget requests budget authority in 2013 for remaining Recreational Boating Safety (RBS) grant funds.

Background and Purpose
The Washington State Parks and Recreation Commission awarded a Recreational Boating Safety grant in the amount of $35,385 to the Whatcom County Sheriff’s Office to conduct on the water patrols. The Sheriff’s Office spent $29,538 in 2012 and requests budget authority in 2013 for the remaining $5,847.

Funding Amount and Source
Funds of $5,847 will be provided by Washington State Parks and Recreation Commission, Recreational Boating Safety (RBS) Federal Financial Assistance Grant, CFDA No. 97.012.

Please contact Undersheriff Jeff Parks at extension 50418 if you have any questions.

Thank you.
Supplemental Budget Request

Status: Pending

Sheriff Administration

Supp1ID # 1496 Fund 1 Cost Center 1003512006 Originator: Dawn Pierce

Expenditure Type: One-Time Year 1 2013 Add'l FTE ☐ Add'l Space ☐ Priority 1

Name of Request: 2013 Boat Safety Grant 2012-2013

Department Head Signature (Required on Hard Copy Submission)

[Signature]

Date: 3/25/13

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<td></td>
<td><strong>$0</strong></td>
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1a. Description of request:
The WA State Parks & Recreation Commission awarded a grant of $35,385 to the Sheriff's Office in 2012. This grant allows the Sheriff's Office to conduct the water patrols to increase education and enforcement efforts and to stimulate greater local participation in boating safety in an effort to reduce boating-related loss of life, personal injury, and property damage. The Sheriff's Office spent $29,538 in 2012 and requests budget authority in 2013 for the remaining $5,847. These funds will be used in 2013 for Operation Drywater and other water patrols.

1b. Primary customers:
Whatcom County citizens and visitors.

2. Problem to be solved:
The Sheriff's Office is currently the only law enforcement agency in Whatcom County that operates a state approved boating safety program under WAC 352-65. The Sheriff's Office provides recreational boating safety patrols and enforcement of both county code and state law.

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:
Vessel inspections and visual spot checks of recreational vessels to insure compliance with county codes and state laws.

4b. Measures:
Written vessel inspections and visual spot inspections of recreational vessels.

5a. Other Departments/Agencies:
N/A

5b. Name the person in charge of implementation and what they are responsible for:
N/A

6. Funding Source:
WA State Parks and Recreation Commission, Recreational Boating Safety (RBS) Grant, CFDA 97.012.

Monday, March 25, 2013
Memorandum

TO: Jack Louws, County Executive
FROM: Sheriff Bill Elfo
DATE: March 25, 2013
SUBJECT: Supplemental Budget ID# 1501
Crisis Negotiation Team Training 2013

The attached Supplemental Budget requests budget authority for Sheriff’s Office Crisis Negotiation Team Training in 2013.

Background and Purpose
The Sheriff’s Office Crisis Negotiation Team (CNT) members require continued training to keep their skills current. The Sheriff’s Office requests budget authority for 8 CNT members to attend Western States Hostage Negotiators’ Association (WSHNA) training in Oregon.

Funding Amount and Source
As this training relates directly to crisis intervention and responding to mental health issues, funding of $8,000 will be provided by the Whatcom County Health Department Behavioral Health Fund.

Please contact Undersheriff Jeff Parks at extension 50418 if you have any questions.

Thank you.
Supplemental Budget Request

Sheriff Administration

Supp't ID # 1501  Fund 1  Cost Center 2940  Originator: Dawn Pierce

Expenditure Type: One-Time  Year 1 2013  Add'l Space  Priority: 1

Name of Request: Crisis Negotiation Team Training 2013

Department Head Signature (Required on Hard Copy Submission)  Date: 3/25/13

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</table>

1a. Description of request:
The Sheriff's Office Crisis Negotiation Teams (CNT) to attend the Western States Hostage Negotiators' Association (WSHNA) 2013 Conference. Conference highlights include Dynamics of Violent Behavior, PTSD for Law Enforcement, PTSD Veterans, and Negotiating with the Insane.

1b. Primary customers:
Crisis Negotiation Teams in the Sheriff's Office, citizens of Whatcom County, and individuals in crisis

2. Problem to be solved:
Continued training for CNT allows team members to receive updates on emerging trends and to keep their skills current.

3a. Options / Advantages:
Behavioral Health Fund monies are available from the Whatcom County Health Department for this training.

3b. Cost savings:
Cost savings to the Sheriff's Office is $8,000.

4a. Outcomes:
Continued training for CNT allows team members to receive updates on emerging trends and to keep their skills current.

4b. Measures:
Positive outcomes for crisis negotiation incidents.

5a. Other Departments/Agencies:
The Whatcom County Health Department administers the Behavioral Health Fund.

5b. Name the person in charge of implementation and what they are responsible for:

Monday, March 25, 2013
### Supplemental Budget Request

<table>
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<tr>
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<th>Administration</th>
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**6. Funding Source:**

Operating Transfer In from the Whatcom County Health Department Behavioral Health Fund. See Whatcom County Health Department supplemental budget for corresponding Operating Transfer Out.
Supplemental Budget Request

Status: Pending

Administrative Services

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<td>332</td>
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Facilities Management

Expenditure Type: One-Time

Year 1 2013

Add'l FTE □ Add'l Space □ Priority 1

Name of Request: Arbitration Settlement on Roof Project

Department Head Signature (Required on Hard Copy Submission)  Date

X  3/28/13

<table>
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1a. Description of request:

Establish budget authority to move an arbitration award from the Tort Fund to the project cost center where the rest of the project was funded from.

1b. Primary customers:

N/A

2. Problem to be solved:

Whatcom County and Mike's Roofing went to arbitration concerning a dispute over removal and replacement of insulation on the 2012 2nd Floor Courthouse/Rotunda roof project. The arbitrator found that removal and replacement of insulation at the roof was not within the scope of the contract and found in favor of Mike's Roofing. The award for materials and labor has been paid out of the Tort Fund. Since the amounts paid are part of the roof project, this supplemental requests budget authority so it can be moved to the Public Utilities Improvement Fund where the rest of the project was paid from.

3a. Options / Advantages:

No other options - contract specified arbitration as the method to settle disputes and Whatcom County is following the contract.

3b. Cost savings:

None

4a. Outcomes:

Tort Fund will be reimbursed upon approval of the supplemental.

4b. Measures:

Fund adjustment will be entered in the accounting system and will move payment from Tort to Public Utilities Improvement Fund.

5a. Other Departments/Agencies:

Adjustment will be between Administrative Services and Tort which is managed by the Prosecuting Attorneys Office. Tort Fund will be made whole.

5b. Name the person in charge of implementation and what they are responsible for:

N/A

6. Funding Source:

Public Utilities Improvement Fund fund balance (EDI Fund)
In re the Arbitration between:

Mike’s Roofing, Inc.

and

Whatcom County

ARBITRATION AWARD

Pursuant to the March 19, 2013 written arbitration agreement of the parties designated above, arbitration was held before arbitrator selected by the parties, Mr. Kerry C. Lawrence. A copy of the arbitration agreement is attached hereto. The hearing was held March 19, 2013, and was closed at the conclusion of the hearing on March 19, 2013.

As arbitrator, I find that removal and replacement of insulation at the roof was not within the scope of the contract entered into between the parties. For that reason, I find in favor of Mike’s Roofing, Inc. as follows.

Materials (including markup for overhead and profit - liquidated amount) $26,192.83
Labor (including markup for overhead and profit - not liquidated) $14,400.00
Additional bond premium on the above two amounts (3%) $1,217.78

Subtotal $41,810.61
Washington State Sales Tax (8.5% of the above amounts): $3,553.90
Interest on the liquidated material amount (10/30/2012-03/20/2013) $1,220.58

Total: $46,685.09

In addition to the above amounts, simple interest at the rate of 12% per annum shall accrue beginning March 21, 2013 on the liquidated amount for materials only ($26,192.83), until paid. All other sums shall NOT bear interest.

The charges of the arbitrator totaled $3875, but all amounts in excess of $3000 are waived. The $3000 in arbitrator compensation shall be shared equally. The parties each deposited in advance $1500 into the trust account of Schlemlein, Goetz, Fick & Scruggs PLLC, and those funds will be disbursed to Schlemlein, Goetz, Fick & Scruggs in ten days.

Signed this 21st day of March, 2013 at Seattle, WA

Kerry C. Lawrence

BATCH # 485109

VOUCHER # 1444904
## TITLE OF DOCUMENT: Flood Control Zone District 2013 Supplemental Budget Request #1

### ATTACHMENTS: Resolution, Memoranda and Budget Modification Requests

<table>
<thead>
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<th>SEPA review required?</th>
<th>( ) Yes</th>
<th>( x ) NO</th>
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<td>SEPA review completed?</td>
<td>( ) Yes</td>
<td>( x ) NO</td>
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### SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

**Supplemental #1 requests funding from the Flood Control Zone District Fund:**

1. To appropriate $1,124,550 to provide additional funding for Phase 2 of the Canyon Creek Integrated Fish and Flood Project.
RESOLUTION NO. 
(A resolution of the Whatcom County Flood Control Zone District Board of Supervisors)

AMENDMENT NO. 1 OF THE 2011 BUDGET

WHEREAS, the 2013 budget for the Whatcom County Flood Control Zone District and Subzones was adopted November 20, 2012; and,

WHEREAS, changing circumstances require modifications to the approved 2013 budget; and,

WHEREAS, the modifications to the budget have been assembled here for deliberation by the Board of Supervisors,

NOW, THEREFORE, BE IT RESOLVED by the Whatcom County Flood Control Zone District Board of Supervisors that the 2013 budget as approved in Resolution 2012-035 is hereby amended by adding the following additional amounts to the budgets included therein:

<table>
<thead>
<tr>
<th></th>
<th>Expenditures</th>
<th>Revenues</th>
<th>Net Effect</th>
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<tbody>
<tr>
<td>Flood Control Zone District</td>
<td>1,124,550</td>
<td>(489,550)</td>
<td>635,000</td>
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</tbody>
</table>

ADOPTED this ___ day of ________________, 2013

WHATCOM COUNTY FCZD
BOARD OF SUPERVISORS

ATTEST:

WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Kathy Kershner, Chair of the Board of Supervisors

APPROVED AS TO FORM:

Civil Deputy Prosecutor
<table>
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<tr>
<th>Flood Control Zone District and Subzones Supplemental #1</th>
<th>Expenditures</th>
<th>Revenues</th>
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<tr>
<td>Flood Control Zone District</td>
<td>1,124,550</td>
<td>(489,550)</td>
<td>635,000</td>
</tr>
<tr>
<td>To provide additional funding for Canyon Creek Phase 2 Construction</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Total Supplemental</td>
<td>1,124,550</td>
<td>(489,550)</td>
<td>635,000</td>
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</table>
MEMORANDUM

TO: The Honorable Members of the Whatcom County Flood Control Zone District Board of Supervisors

THROUGH: Frank M. Abart, Public Works Director

FROM: Paula J. Cooper, River and Flood Manager
Chris Brueske, Assistant Director

RE: FCZD 2013 Supplemental Budget Request – Canyon Creek Integrated Fish and Flood Project

DATE: March 20, 2013

The attached Supplemental Budget Request (ID# 1491) is proposed to provide additional funding for the Canyon Creek Integrated Fish and Flood Project, based on the engineer’s estimate for the final project design. At their March 14, 2013 meeting, the FCZD Advisory Committee unanimously supported a recommendation to approve the supplemental budget request.

The proposed supplement to the 2013 FCZD budget will:

- Increase revenues associated with federal and state funding for salmon recovery by $489,550
- Increase budgeted expenditures by $1,124,550
- Impact the 2013 FCZD budget by a net increase of $635,000

Please contact Paula Cooper at extension 50625, if you have any questions or concerns regarding the terms of this supplemental budget request.

Encl
Supplemental Budget Request

Public Works

Flood Control Zone District

Suppl ID #: 1491  Fund 169  Cost Center 710013  Originator: Paula Cooper

Expenditure Type: One-Time  Year 1  2013  Add'l FTE  Add'l Space  Priority 1

Name of Request: Canyon Creek Phase 2 Construction

X

Department Head Signature (Required on Hard Copy Submission)  Date  3/21/2013

Costs:

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<td>6670</td>
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<td>$1,124,550</td>
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<tr>
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1a. Description of request:

The Canyon Creek integrated fish and flood project will improve fish habitat and reduce flood risk in an area that has historically supported up to half the documented spring Chinook spawning for the North Fork. Debris floods in 1989 and 1990 destroyed four houses and a portion of a County road, prompting construction of a levee in the middle of the active alluvial fan. The levee constrains the area available for storing and conveying floodwaters and debris, degrading habitat and increasing flow velocities. The project proposed for 2013 construction includes setting back the rock armor on the face of the existing levee to the edge of the active fan, removing the levee and constructing eleven engineered log jams.

1b. Primary customers:

This project will reduce risk to the Glacier Springs subdivision and the Mount Baker Highway, benefiting the local community and the travelling public. The improvements to fish habitat will benefit the general public.

2. Problem to be solved:

The existing levee constrains the area available to store and convey water and debris, resulting in increased velocities and impeding natural stream processes. This has degraded fish habitat on a stream that supports several salmon species including those listed as threatened under the Endangered Species Act. The armor rock on the existing levee is not large enough to withstand events of similar magnitude as the 1989 and 1990 events and provides a false sense of security to Glacier Springs residents. Failure of the existing levee could potentially increase damages in areas of the fan.

3a. Options / Advantages:

In 2000, an alternatives analysis was conducted to evaluate options to address the problem. Alternatives analyzed include repairing the existing levee, setting the levee back and purchasing high risk areas of the fan. Setting the levee back was identified as the alternative that would result in the greatest reduction in risk but also was the most expensive. At that time the FCZD Advisory Committee and the Board of Supervisors supported a project to acquire the highest risk properties on the fan. Since then, the key properties along the fan margin have been acquired, providing the land needed to implement the levee setback alternative. Restoration of lower Canyon Creek was identified in the WRIA #1 Salmon Recovery Plan, making it a high priority for grant funding.

The proposed project will provide the highest level of risk reduction and improvements to fish habitat.

3b. Cost savings:

Setting back the levee will reduce the potential and frequency for repairs to the flood protection and reduce the potential for damages.

Wednesday, March 20, 2013

Rpt: Rpt Suppl Regular
4a. Outcomes:
The project will be constructed in 2013 and will include setting back the armor, removing the levee and constructing 11 engineered log jams. This will provide more area to store and convey flood waters and debris, reducing flood risk and enabling natural stream processes. The log jams will provide immediate habitat for salmon, including ESA-listed species, and help train normal stream flows away from the rock armor.

4b. Measures:
The project includes a monitoring component to evaluate the quantity and quality of instream and riparian habitat created by the project and by the stream as it migrates across the fan. Monitoring of the setback revetment will be included in this to ensure the integrity of the structure is not compromised.

5a. Other Departments/Agencies:
This request will not directly impact other departments. While the project will reduce risk on the fan, it will not eliminate all risk. Residents in the adjacent community will still need to comply with the Critical Areas Ordinance as alluvial fans are geologically hazardous areas.

5b. Name the person in charge of implementation and what they are responsible for:
N/A

6. Funding Source:
The funding source for this request includes the following:

2013 approved budget:
NOAA/RCO grant: $973,750
FCZD fund: $1,302,020

Supplemental budget request:
RCO grant amendment $292,248
NOAA/PSP grant $197,302
Additional FCZD fund: $635,000
### WHATCOM COUNTY COUNCIL AGENDA BILL

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<th>Date Received in Council Office</th>
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**TITLE OF DOCUMENT:**
An Ordinance amending Ordinance 2012-048 in the Matter of the Adoption of the Final Budget of Whatcom County for the Biennium 2013-2014 and Restricting the Expenditure of Certain Funds Therein.

**ATTACHMENTS:**
Proposed Ordinance

<table>
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<th>( ) Yes</th>
<th>(X ) NO</th>
<th>Should Clerk schedule a hearing?</th>
<th>( ) Yes</th>
<th>( x ) NO</th>
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<td>Requested Date:</td>
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</table>

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

This proposed ordinance amends the Whatcom County 2013-2014 budget ordinance Section II, provision (D).

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
Memorandum

To: Jack Louws, County Executive
From: Brad Bennett, Finance Manager
Date: March 29, 2013
Re: Amendment to 2013-2014 Budget Ordinance

The attached budget ordinance resolves two challenges we have administering the budget. First, cost centers within funds change almost daily. As plans for work are refined frequently new cost centers are needed and the budget authority needs to be shifted to these new cost centers. The current budget ordinance requires council approval for transfers between cost centers within funds other than the General Fund. This is a very burdensome requirement. I believe this change was unintentional since the budget for funds other than the General Fund are adopted at the fund level.

The second challenge is administering budgets for groups of departments within the General Fund that function as one unit, examples are Juvenile, County Clerk, Superior Court managed by Dave Reynolds and District Court, District Court Probation managed by Bruce Van Glubt. When budget adjustments are needed in these departments frequently the solution involves changes in multiple department budgets. The Departments and Administrative Services Finance could save a considerable time if these budget changes could be address with budget transfers rather than supplemental budgets.
ORDINANCE NO. ___________
AN ORDINANCE AMENDING ORDINANCE 2012-048
IN THE MATTER OF THE ADOPTION OF THE FINAL BUDGET OF
WHATCOM COUNTY FOR THE BIENNINUM 2013-2014
AND RESTRICTING THE EXPENDITURE OF
CERTAIN FUNDS THEREIN

WHEREAS, On November 7, 2012 the Whatcom County Council adopted the Whatcom County Budget for the biennium 2013-2014 with ordinance 2012-048; and,

WHEREAS, Changes to Section II.(D) of this ordinance will improve the County Executive’s efficiency administering the County Budget;

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that Section II. (D) of Ordinance 2012-048 is amended as follows:

Section II. Provisions Restricting Expenditures

(D) Administration of the budget is the responsibility of the County Executive and therefore the County Executive is authorized to manage County budgets by transferring appropriation authority between departments within the General Fund and cost centers within other County funds, if authorized by the County Council.

ADOPTED this _____ day of ________________________, 2013.

ATTEST: WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk
Kathy Kershner, Council Chair

APPROVED as to form: ( ) Approved ( ) Denied

Jack Louws, Executive

Date: _______________________

Page 1
Ordinance revising Whatcom County Code 2.27A, Aquatic Invasive Species

This revision to the ordinance expands the AIS prevention program to include mandatory inspections of watercraft prior to launching at Lake Whatcom and Lake Samish in 2013, and at all Whatcom County water bodies starting in 2015.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: [www.co.whatcom.wa.us/council](http://www.co.whatcom.wa.us/council).
MEMORANDUM

To: Honorable Members of the Whatcom County Council, and The Honorable Jack Louws, Whatcom County Executive

Through: Frank M. Abart, Director

From: Chris Brueske, P.E., Assistant Director

Date: March 27, 2013

Re: Ordinance revising Whatcom County Code 2.27A Aquatic Invasive Species

Enclosed for your review and consideration is an Ordinance revising Chapter 2.27A of the Whatcom County Code related to Aquatic Invasive Species (AIS).

Background and Purpose
The attached revision expands the AIS prevention program to include mandatory inspections of watercraft prior to launching at Lake Whatcom and Lake Samish in 2013, and at all Whatcom County water bodies starting in 2015. Watercraft covered by the inspection program includes all vessels that require registration by the Washington State Department of Licensing. This requirement is intended to ensure that those boats posing the greatest risk of transporting AIS are inspected and will help to streamline administration of the inspection program in the future.

The proposed ordinance revision also includes a requirement for the Public Works Department to develop an expedited inspection and permitting program for County residents by 2015. This will be necessary to minimize the administrative burden and associated costs of an inspection program covering all water bodies in Whatcom County.

Funding Amount and Source
Funding for the 2013 inspection program is included in a Supplemental Budget Request to be introduced on April 23, 2013. The fee structure for AIS inspections and permits is included in an amendment to the Unified Fee Schedule forwarded under separate cover.

The proposed budget for the AIS inspection program in 2013 is approximately $55,000. Of this amount, approximately $32,000 comes from existing budget authority in the approved 2013 Natural Resources and Noxious Weed budgets, and $23,000 is transferred from the Flood fund balance. The $23,000 from the Flood fund balance will be included in the Supplemental Budget Request to allow inclusion of Lake Samish in the 2013 inspection program. An additional supplemental budget request is anticipated later this year to address budget needs for the 2014 AIS inspection program.

Please contact Chris Brueske at extension 50693 if you have any questions or concerns regarding this agreement.
ORDINANCE NO.__________

AMENDING WHATCOM COUNTY CODE CHAPTER 2.27A TO PREVENT THE RELEASE AND SPREAD OF AQUATIC INVASIVE SPECIES.

WHEREAS, the County has authority under Washington State law to protect the health, safety, and general welfare of the public, to regulate and protect waters within its jurisdiction, and to control the transport and release of Aquatic Invasive Species,

WHEREAS, Lake Whatcom and Lake Samish are the drinking water sources for approximately half of the residents of Whatcom County and the vast majority of the City of Bellingham residents; and

WHEREAS, Whatcom County has adopted goals and policies to protect Lake Whatcom, Lake Samish and other freshwater lakes and streams; and

WHEREAS, Aquatic Invasive Species pose a serious threat to the waters of Whatcom County and can have severe impacts to ecology, water quality, water supply infrastructure, and recreational use; and

WHEREAS, watercraft transported from water bodies with Aquatic Invasive Species to uninfested waters are the principal cause of new infestations; and

WHEREAS, prevention programs that include education, screening, and watercraft inspection are effective in preventing the spread of Aquatic Invasive Species to uninfested water bodies; and

WHEREAS, an Aquatic Invasive Species prevention program is necessary to reduce the risk of Aquatic Invasive Species infestation and related impacts at Lake Whatcom and other waters of Whatcom County; and

WHEREAS, Whatcom County has authority under RCW 36.32.120 and Washington State law generally to regulate and protect its water supply and other waters within its jurisdiction; and

WHEREAS, Whatcom County adopted Ordinance 2012-034 in September 25, 2012, codified at WCC Chapter 2.27A, to prevent the release and spread of Aquatic Invasive Species into waters of Whatcom County; and

WHEREAS, it is in the best interests of Whatcom County to amend WCC Chapter 2.27A to further define and enhance its Aquatic Invasive Species detection and prevention program, including the adoption of mandatory inspection and permitting requirements for watercraft in Whatcom County.
NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that
Whatcom County Code 2.27A is hereby deleted in its entirety and replaced with the
following, adopted as set forth in Exhibit A, attached hereto.

ADOPTED this ______ day of ______________ 2013.

ATTEST

Dana Brown Davis, Clerk of the Council

Kathy Kershner, Council Chair

APPROVED AS TO FORM:

Civil Deputy Prosecutor

Jack Louws, County Executive

( ) Approved   ( ) Denied

Date Signed: ____________________
Exhibit A

WCC Chapter 2.27A
Aquatic Invasive Species

2.27A.010 Definitions

For the purpose of this chapter, the following definitions shall apply:

A. "Authorized Inspector" means a person who has received the necessary training approved by Whatcom County to inspect Watercraft to detect the presence of Aquatic Invasive Species.

B. "Aquatic Invasive Species" and "AIS" shall mean and include those species classified in Washington Administrative Code (WAC) 220-12-090 as "prohibited aquatic animal species", and those plant species listed in WAC 16-752-400-415; 505; and 610. For purposes of this section, WAC 220-12-090 and WAC 16-752-400-415; 505; and 610, as presently constituted or as hereinafter amended, are adopted and incorporated herein by reference.

C. "Enforcement Officer" includes any peace officer with jurisdiction in Whatcom County, and the County Noxious Weed Coordinator or his or her designee, to enforce the prohibitions set forth in this section.

D. "Inspection" means an inspection of a Watercraft or other vessel conducted by an Authorized Inspector for the purpose of detecting Aquatic Invasive Species and preventing their transport and release into any Public Water Body. Inspections may consist of questioning as well as a visual and tactile search of the exterior and interior of the Watercraft or other vessel, including but not limited to the hull, trailer, motor, propeller, bilge pump, compartments, bait well, ballast tank, bladder, and all areas of standing water.

E. "Inspection Seal" means a chord or tether installed by an Authorized Inspector in a manner that connects a Watercraft to its trailer for the purpose of indicating that the Watercraft has passed Inspection, has not entered a water body since passing Inspection, and, therefore, may launch without further Inspection so long as the Inspection Seal is intact at the time of launch.

F. "Launch" means any act that places or attempts to place a Watercraft into a Public Water Body.

G. "Public Water Body" shall mean Lake Whatcom, Lake Samish, Baker Lake, Tennant Lake, Lake Terrell, Wiser Lake, Silver Lake, Toad Lake, Squalicum Lake, Reed Lake, Cain Lake and all other freshwater lakes and streams in unincorporated areas of Whatcom County where Watercraft have access.

H. "Watercraft" shall mean any vessel requiring registration by the State of Washington Department of Licensing under RCW 88.02 and WAC 308-93-030 and any vessel registered under the laws of a state other than Washington State or a country other than the United States.

2.27A.020 Prohibitions

The following activities are prohibited:

A. The transport or release of Aquatic Invasive Species into a Public Water Body.
B. Launching, operating or keeping on a Public Water Body a Watercraft that has not submitted to Inspection and decontamination as required by this section.

C. Launching, operating or keeping a Watercraft on a Public Water Body without a current AIS Permit as required by WCC 2.27A.070, below.

2.27A.030 Inspection and Decontamination.

A. Inspections shall be required of:
   i. Effective April 27, 2013, all Watercraft prior to its first launch onto Lake Whatcom or Lake Samish in each calendar year;
   ii. Effective April 27, 2013, all Watercraft prior to its first launch onto Lake Whatcom or Lake Samish after it has entered any fresh water body located outside Whatcom County, Washington; and
   iii. Effective April 25, 2015, all Watercraft prior to its first launch onto a Public Water Body in each calendar year;
   iv. Effective April 25, 2015, all Watercraft prior to its first launch onto a Public Water Body after it has entered any fresh water body located outside Whatcom County, Washington; and
   v. All Watercraft prior to each and every launch onto a Public Water Body from a public access point for which an AIS check station is operating under this section, except Watercraft bearing an intact Inspection Seal.

B. Exemptions
   Watercraft inspections and the associated fees shall not be required for:
   i. Law enforcement and emergency response watercraft.
   ii. Watercraft involved in search and rescue operations or training.

C. Inspection and Decontamination Services
   i. Whatcom County may establish and operate AIS check stations at public access points to Public Water Bodies.
   ii. Whatcom County may, upon request by an owner or operator of a Watercraft, conduct an Inspection on private property owned by the Watercraft owner or operator.
   iii. All AIS check stations operating under this section shall be marked by signs and staffed by one or more Authorized Inspectors. AIS check stations authorized by this section shall be subject to hours of operation and other program requirements established by the Director of Public Works or his designee.
   iv. If upon Inspection an Authorized Inspector determines that a Watercraft is not contaminated with Aquatic Invasive Species, then said Watercraft shall be permitted to launch, subject to payment of fees authorized in Section .050 of this Chapter.
   v. If upon Inspection an Authorized Inspector reasonably suspects that a Watercraft or any other vessel is contaminated with Aquatic Invasive Species, the Authorized Inspector may decontaminate the Watercraft on site or direct the Watercraft owner or operator to a decontamination
station where the Watercraft will undergo a decontamination process. Following decontamination, the Watercraft owner or operator shall not launch the Watercraft onto a Public Water Body until the Watercraft has been re-inspected and approved for launch by an Authorized Inspector.

vi. A Watercraft owner or operator may refuse to stop and consent to Inspection at any AIS check station authorized by this section; provided, if any Watercraft owner or operator refuses to stop and consent to Inspection at an AIS check station authorized by this section, then said owner or operator shall not launch his or her Watercraft from said location and shall be in violation of this section if he or she nevertheless attempts to do so.

2.27A.040 Safe Harbor

Any person who voluntarily stops and consents to Inspection at an AIS check station or other Inspection station and cooperates in the decontamination process shall not be subject to penalties under this section for possessing or transporting Aquatic Invasive Species.

2.27A.050 AIS Permits and Fees

A. Every Watercraft requiring inspection under this Chapter shall be affixed with an AIS Permit issued by Whatcom County or the City of Bellingham prior to launching or operating on Public Water Bodies.

B. AIS Permits shall be issued upon passage of Inspection and payment of the applicable fee.

C. The fee for inspection and decontamination services shall be established in the Whatcom County Unified Fee Schedule.

D. AIS Permits shall be available as follows:

i. Annual Sticker. Each Annual Sticker shall be effective during the calendar year in which it is issued. A receipt evidencing payment of the Annual Sticker fee shall entitle the holder to unlimited Inspections and Inspection Seal installation services for the Watercraft to which the Annual Sticker is affixed.

ii. Day Pass. Each Day Pass shall be effective only on the date it is issued. A receipt evidencing payment of the Day Pass fee shall entitle the holder to one Inspection of the Watercraft to which the Day Pass is affixed.

E. AIS Permits are nontransferable and shall apply to a single Watercraft. AIS Permits shall be affixed to the Watercraft as directed by the Authorized Inspector in a visible location located above the waterline.

F. A Watercraft shall be deemed to be in compliance with the inspection and permitting requirements of this section if his or her Watercraft is currently in compliance with an Aquatic Invasive Species inspection and permitting program adopted by the City of Bellingham, Washington.

G. The fees authorized by this section are intended to offset the cost to Whatcom County of implementing this section for the purpose of detecting and preventing the spread of Aquatic Invasive Species and are not intended to be, nor shall they be construed to be, charges imposed upon access to Public Water Bodies for the purpose of outdoor recreation.
H. The Public Works Department is directed to develop an expedited inspection and permitting program for residents of unincorporated Whatcom County for consideration by the Whatcom County Council prior to April 1, 2015.

2.27A.060 Cooperative Agreements.

Whatcom County may enter into cooperative agreements with persons and entities, including but not limited to, homeowner’s associations, condominium associations, civic groups and governmental entities, to adopt and execute plans, which may be implemented inside or outside Whatcom County, to detect and prevent the transport and release of Aquatic Invasive Species in Public Water Bodies.

2.27A.070 Penalties

A. Any person violating this section shall have committed a civil infraction, and shall be punished by a fine not to exceed $1,000 for each violation. Each violation of this section shall be a separate infraction, and in the case of a continuing violation, each day’s continuance shall be deemed to be a separate and distinct infraction. Civil infractions under this section shall be issued and processed in accordance with Chapter 7.80 RCW, except as otherwise provided in this section. Each party to a civil infraction case shall bear its own attorney’s fees, witness fees and costs.

B. Any individual who violates this section may be held responsible for the costs expended by the Whatcom County or its designee for response and mitigation of impacts.

C. Payment of any civil penalty herein shall not relieve any individual from the responsibility of correcting the violations as found by the Enforcement Officer.

D. Any person found not in compliance with this section is subject to citation, shall be escorted off the Public Water Body, and shall be subject to any other legal action as deemed necessary by the Enforcement Officer including but not limited to detaining said person and Watercraft until inspected and decontaminated as required under this section.

E. Fines collected as a result of violating this section that are not otherwise encumbered, shall be used to fund the Whatcom County Aquatic Invasive Species Management and Prevention Program.

2.27A.080 Applicability

The provisions of this code section shall apply in addition to the provisions of any other code provision or ordinance. Where there is a conflict, the more restrictive provision shall apply. The provisions of this section are in addition to those provisions regulating Aquatic Invasive Species as contained in Washington State law.

2.27A.090 Severability.

If any section, provision, or portion of this chapter shall be determined to be invalid, the remainder of the chapter shall not for that reason be rendered ineffective or invalid.
Ordinance revising the Whatcom Unified Fee Schedule to include Aquatic Invasive Species Inspection Fees

ATTACHMENTS:

1. Cover memo
2. Ordinance amending Whatcom County Unified Fee Schedule

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

This revision to the Unified Fee Schedule sets fees for Aquatic Invasive Species inspections on Whatcom County water bodies.
MEMORANDUM

To: Honorable Members of the Whatcom County Council, and
    The Honorable Jack Louws, Whatcom County Executive

Through: Frank M. Abart, Director

From: Chris Brueske, P.E., Assistant Director

Date: March 27, 2013

Re: Ordinance revising the Whatcom County Unified Fee Schedule to include Aquatic Invasive Species inspection fees

Enclosed for your review and consideration is an ordinance revising the Whatcom County Unified Fee Schedule to include Aquatic Invasive Species (AIS) inspection fees.

Background and Purpose
The Whatcom County Council is currently considering legislation mandating AIS inspections for watercraft launching on certain Whatcom County water bodies.

The attached revision to the Unified Fee Schedule sets fees for these inspections at $50.00 for an Annual Sticker and $20.00 for a Day Pass. These fees match those to be charged by the City of Bellingham during 2013 for AIS inspections on Lake Whatcom.

Please contact Chris Brueske at extension 50693 if you have any questions or concerns regarding this agreement.
ORDINANCE NO.__________

AMENDING THE WHATCOM COUNTY UNIFIED FEE SCHEDULE

WHEREAS, the Whatcom County Council adopted Ordinance No. _________ on __________, 2013, thereby establishing mandatory Aquatic Invasive Species inspections prior to launch at certain Whatcom County water bodies; and

WHEREAS, the 2013 Unified Fee Schedule was adopted by the Whatcom County Council by Ordinance No. 2012-043 on November 20, 2012; and

WHEREAS, fees for Aquatic Invasive Species inspections are not included in the 2013 Unified Fee Schedule;

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the following new fees are hereby incorporated into the Whatcom County Unified Fee Schedule:

Aquatic Invasive Species Inspection Annual Sticker: $50.00
Aquatic Invasive Species Inspection Day Pass: $20.00

ADOPTED this _____ day of _______________ 2013.

ATTEST

Dana Brown Davis, Clerk of the Council

Kathy Kershner, Council Chair

APPROVED AS TO FORM:

Daniel L. Nibson

Civil Deputy Prosecutor

Jack Louws, County Executive

( ) Approved  ( ) Denied

Date Signed: __________
ORDINANCE NO.__________

AMENDING THE WHATCOM COUNTY UNIFIED FEE SCHEDULE

WHEREAS, the Whatcom County Council adopted Ordinance No. on , 2013, thereby establishing mandatory Aquatic Invasive Species inspections prior to launch at certain Whatcom County water bodies; and

WHEREAS, the 2013 Unified Fee Schedule was adopted by the Whatcom County Council by Ordinance No. 2012-043 on November 20, 2012; and

WHEREAS, fees for Aquatic Invasive Species inspections are not included in the 2013 Unified Fee Schedule;

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the following new fees are hereby incorporated into the Whatcom County Unified Fee Schedule:

Aquatic Invasive Species Inspection Annual Sticker: $50.00  
Aquatic Invasive Species Inspection Day Pass: $20.00

ADOPTED this day of , 2013.

ATTEST

Dana Brown Davis, Clerk of the Council

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Kathy Kershner, Council Chair

APPROVED AS TO FORM:

Jack Louws, County Executive

( ) Approved    ( ) Denied

Date Signed: ________

Civil Deputy Prosecutor

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON
TITLE OF DOCUMENT:
Amendment to Whatcom County Code Section 1.14 Correcting Certain Precinct Boundary Lines and Precinct Descriptions

ATTACHMENTS:
Ordinance and Amendment A

SEPA review required?  ( ) Yes  (x) NO
SEPA review completed?  ( ) Yes  ( ) NO

Should Clerk schedule a hearing?  (x) Yes  ( ) NO
Requested Date: 4/23/13

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Changes are needed to correct certain precinct description and boundary lines in Whatcom County Code Section 1.14 as presented last year:

- Expand description of precinct 183 to encompass all of the National Forest land in eastern Whatcom County;
- Scribner error for precinct 250 to correct a street name in the legal description;
- Adjust boundaries in precincts 209 and 222 to accommodate accurate designation of voters in the Port marina area to the slip number assigned. This also affects a change in the city’s ward lines between Ward 1 and Ward 3; and
- Adjust boundary line in precincts 224 and 225 to allow for the treatment lagoon at the former Georgia Pacific site to be contained within one precinct (rather than be divided between two).

COMMITTEE ACTION:  

COUNCIL ACTION:  

Related County Contract #:  
Related File Numbers:  
Ordinance or Resolution Number:  

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
AMENDING WHATCOM COUNTY CODE SECTION 1.14, ELECTORAL PRECINCTS, FOR CHANGES IN CERTAIN VOTING PRECINCT BOUNDARIES IN WHATCOM COUNTY

WHEREAS, it has been determined that many of the National Forest lands contained in the eastern part of Whatcom County have not been designated to any specific voting precinct; and it is further determined to expand Precinct 183 currently around the Newhalem area to encompass the rest of the undesigned land to the boundaries of the county; and

WHEREAS, a change is needed to Precincts 209 and 222, respectively, to allow for voters living aboard vessels in the marina area to be designated and assigned to voting precincts according to their pier slip and not by some other method previously used; and the City of Bellingham will designate an appropriate similar adjustment to the Ward Lines of Ward 1 and Ward 3, respectively, as a result; and

WHEREAS, it is also suggested that for future purposes the treatment lagoon located off the former Georgia Pacific site be designated in its entirety to one precinct, rather than being divided between two; and the boundaries of Precincts 224 and 225 shall be designated; and

WHEREAS, a Scribner's error was discovered in the legal description for the precinct boundary of Precinct 250 in the ordinance adopting all precinct boundaries approved on April 24, 2012 which indicated references to "High Street" which should have been "Highland Drive;" and

WHEREAS, RCW 29A.16.040 requires the county legislative authority of each county in the state to divide the county into election precincts and establish the boundaries of the precincts; and

WHEREAS, RCW 29A.16.040 further provides that no precinct boundary changes may be made starting fourteen (14) days prior to the first day candidates may file for the primary election through the period ending with the general election; and

WHEREAS, the first day for candidates to file is the 13th day of May, 2013, and

WHEREAS, RCW 29A.76.030 provides the County Auditor shall transfer and notify any registered voters that may be affected by the change in boundaries.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the proposed Amendment A attached hereto designating the new boundaries affecting Precincts 183, 209, 222, 224 225, and 250 shall replace the previously approved descriptions so designated.

ADOPTED this ____ day of __________________________, 2013.

ATTEST:

________________________________________________________
Dana Brown-Davis, County Clerk

APPROVED AS TO FORM:

________________________________
Civil Deputy Prosecutor

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY,
WASHINGTON

Kathy Kershner, Council Chair

( ) Approved    ( ) Denied

Jack Louws, County Executive
Date: ____________________________
Amendment A – Adjustments to WCC 1.14
Proposed with Ordinance No. _________
Intro Date 4/9/13; Hearing Date 4/23/13

Revised Precinct Boundary Descriptions to be substituted into the Whatcom County Code for these designated precincts:

Precinct 183
Beginning at the intersection of the international boundary line and the West line of Sec 31, T 41 N, R 7E; then south along said section line and the section lines of Sec 6, 7, 18, 19, 30, and 31, all in T 40 N, R 7E to the southwest corner of Sec 31, T 40 N, R 7E; then east approximately 6 miles to the southwest corner of Sec 31, T 40 N, R 8E; then south 3 miles to the southwest corner of Sec 18, T 39 N, R 8E; then west 6 miles to the northwest corner of Sec 19, T 39 N, R 7E; then south along west section lines of Sec 19, 30, and 31, all in T 39 N, R 7E; and Sec 6, 7, 18, 19, 30 and 31, all in T 38 N, R 7E; and Sec 6, 7, 18, 19, 30 and 31, all in T 37 N, R 7E to the boundary separating Whatcom and Skagit Counties; then east approximately 55 miles to the boundary separating Whatcom and Okanogan Counties; then north along said boundary to the international boundary line; then east long said boundary line to the point of beginning.

Precinct 209
Beginning at the intersection of the centerlines of West Street and Monroe Street; then west along said centerline of Monroe Street to its intersection with the centerline of Cherry Street; then south along said centerline of Cherry Street to the centerline of Roeder Avenue; then west along Roeder Avenue to the extension of its intersection with the extension of Keesling Avenue to its intersection with the extended shoreline of Bellingham Bay and city limits of the City of Bellingham, then west and north along the extended shoreline of Bellingham Bay to its intersection with the extension of the centerline of Nequamic Avenue being the city limits of the City of Bellingham; then north and west along said city limits to its intersection with the extension of the centerline of W Illinois Street; then east along said extension of W Illinois Street and W Illinois Street to its intersection with the meander line of Squalicum Creek; then south along said meander line to its intersection with the centerline of West Street; then south along said centerline of West Street to the point of beginning.

Precinct 222
Beginning at the intersection of the centerlines of Elm Street and Broadway; then southwest along said centerline of Broadway and the centerline of Bellwether Way and the extension of Bellwether Way to the extended shoreline of Bellingham Bay being the city limits of the City of Bellingham; then northwest along said city limits to its intersection with the extension of the centerline of Keesling Street; then north along said centerline of the extension of Keesling Street to the intersection with the centerline of Roeder Avenue; then east along the centerline of Roeder Avenue to the extension of its intersection with Cherry Street; then north along said centerline of the extension of
Amendment A – Adjustments to WCC 1.14
Proposed with Ordinance No. __________
Intro Date 4/9/13; Hearing Date 4/23/13

Cherry Street and Cherry Street to its intersection with the centerline of Monroe Street; then east along said centerline of Monroe Street to its intersection with the centerline of Henry Street to its intersection with the centerline of W North Street; then east along said centerline of W North Street to its intersection with the centerline of Elm Street, then south along said centerline of Elm Street to the point of beginning.

Precinct 224
Beginning at the intersection of the centerlines of Dupont Street and Broadway; then southwesterly along the centerlines of Broadway and Bellwether Way and the extension of Bellwether Way to its intersection with the extended shoreline of Bellingham Bay being the city limits of the City of Bellingham; then southeasterly along said city limits to its intersection with the centerline of the extension of B Street; then northeasterly along said centerline of the extension of B Street to its intersection with the centerline of Roeder Avenue; then westerly along said centerline of Roeder Avenue to the centerline of E Street; then northeasterly along said centerline of E Street to the centerline of Dupont Street; then northwesterly along the centerline of Dupont Street to the point of beginning.

Precinct 225
Beginning at the intersection of the centerlines of Jenkins Street and E Street; then southwesterly along the centerline of E Street to its intersection with the centerline of Roeder Avenue; then southeasterly along Roeder Avenue to the intersection with the centerline of the extension of B Street; then southwesterly along the centerline extension of B Street to its intersection with the extended shoreline of Bellingham Bay being the city limits of the City of Bellingham; then southeasterly along said city limits to its intersection with the centerline of Wharf Street; then northeasterly along said centerline of Wharf Street to its intersection with the centerline of N State Street; then northeasterly along said centerline of N State Street to its intersection with the meander line of Whatcom Creek; then northwesterly along said meander line to its intersection with the centerline of Cornwall Avenue; then north along said centerline of Cornwall Avenue to its intersection with the centerline of Irving Street; then northwesterly along said centerline of Irving Street to its intersection with the centerline of B Street; then northeasterly along said centerline of B Street to its intersection with the centerline of Jenkins Street; then northwesterly along said centerline of Jenkins Street to the point of beginning.

Precinct 250
Beginning at the intersection of the centerlines of S Garden Street and Olive Street; then northwesterly along said centerline of Olive Street and its extension to its intersection with the extended shoreline of Bellingham Bay being the city limits of the
Amendment A – Adjustments to WCC 1.14  
Proposed with Ordinance No. ________  
Intro Date 4/9/13; Hearing Date 4/23/13

City of Bellingham; then southwesterly along said city limits to its intersection with the centerline of the extension of Adams Avenue; then east along said centerline of the extension of Adams Avenue and Adams Avenue to its intersection with the centerline of 16th Street; then south along said centerline of 16th Street to its intersection with the centerline of Taylor Avenue; then east along said centerline of Taylor Avenue to its intersection with the Centerline of Highland Drive; then north along said centerline of Highland Drive to its intersection with the centerline of Easton Avenue; then east along said centerline of Easton Avenue and its continuation as 20th Street to its intersection with the centerline of W College Way; then northwesterly along said centerline of W College Way to its intersection with the centerline of High Street Highland Drive; then northerly along said centerline of High Street Highland Drive to its intersection with the centerline of the extension of Consolidation Avenue; then west along said centerline of the extension of Consolidation Avenue to its intersection with the centerline of S Garden Terrace; then southwesterly along said centerline of S Garden Terrace to its intersection with the centerline of 17th Street; then northerly along said centerline of 17th Street to its intersection with the centerline of S Garden Street; then southwesterly along said centerline of S Garden Street to the point of beginning.
Precinct 224

Ward 3
Council District 1
Leg. District 42
Cong. District 2

March, 2013