

CLEARANCES	Initial	Date	Date Received in Council Office:	Agenda date	Assigned to:
Originator:				6/6/95	Planning / County Council
Division Head:				6/20/95	Planning / Council
Dept. Head:					
Prosecutor:					
Purchasing/Budget:					
Executive:					

**SUBJECT:** Ordinance Converting Accessory Dwellings from Conditional Uses to Administrative Approval Uses, Modifying the Requirements for Lake Whatcom and Lummi Island, Creating an Administrative Approval Section for the Resort-Commercial Zone, and Modifying the Requirements of Administrative Approvals.

**ATTACHMENTS:** Previous Proposed Ordinance (AB95-098)

**SUMMARY STATEMENT:** *Please complete sections of box as appropriate & explain the item below.*

Related County contract #:	Should Clerk schedule a hearing? NO / / YES / / Requested date:
Amount budgeted for this item/project:	Is it (or will it be) within budget? YES / / NO / / (Please explain below)
Budget line item number(s):	

The previous proposed Accessory Housing Ordinance (AB95-098) was approved by Council and vetoed by the Executive.

**ORIGINATOR'S RECOMMENDED ACTION:**

**COMMITTEE ACTION TAKEN:**

**COUNCIL ACTION TAKEN:**

6/6/95: Introduced  
 6/20/95: Amended, Adopted 6-0

**Related File Numbers:**

AB93-463, AB95-098

**Ordinance or Resolution Number (this item only):**

Ord. 95-031

SPONSORED BY: Planning

PROPOSED BY: Council

INTRODUCTION DATE: 6/6/95

ORDINANCE NO. 95-031

1  
2 AN ORDINANCE CONVERTING ACCESSORY DWELLINGS FROM CONDITIONAL USES TO  
3 ADMINISTRATIVE APPROVAL USES, MODIFYING THE REQUIREMENTS FOR LAKE  
4 WHATCOM AND LUMMI ISLAND, CREATING AN ADMINISTRATIVE APPROVAL SECTION  
5 FOR THE RESORT-COMMERCIAL ZONE AND MODIFYING THE REQUIREMENTS OF  
6 ADMINISTRATIVE APPROVALS.  
7

8       **WHEREAS**, the accessory housing ordinance adopted February 1994 was  
9 considered an experiment; and  
10

11       **WHEREAS**, its intent was to help address affordable housing without causing  
12 serious disruption to land use planning; and  
13

14       **WHEREAS**, the initial response has been much greater than anticipated, with  
15 accessory housing applications representing approximately 35% of the total Conditional  
16 Use permits processed by the Land Use Specialist who handles these permits; and  
17

18       **WHEREAS**, based on the above, the Council directed the Planning Commission to  
19 review the Accessory Housing Regulations; and  
20

21       **WHEREAS**, a Determination of Non-Significance had been issued on September 1,  
22 1993, by the responsible Deputy SEPA Official; and  
23

24       **WHEREAS**, pursuant to RCW 36.70.590 legal notice was published in the  
25 Bellingham Herald on Thursday, January 12, 1995; and  
26

27       **WHEREAS**, the Planning Commission held a public hearing on January 25, 1995,  
28 and considered all public testimony during its work session that same evening; and  
29

30       **WHEREAS**, after due deliberation and amendments, the Planning Commission voted  
31 unanimously (one abstention) to approve the request; and  
32

33       **WHEREAS**, the Council held a public meeting on February 28, 1995 to consider this  
34 matter and determined to hold a public hearing; and  
35

36       **WHEREAS**, the Council held a public hearing on March 11, 1995, and considered all  
37 public testimony; and  
38

39       **WHEREAS**, the Council, at a public meeting on April 11, adopted a modified version  
40 of the ordinance; including increasing the square footage of accessory units to 1,300  
41 square feet; and  
42

1           **WHEREAS**, the Executive subsequently vetoed the ordinance, primarily on the basis  
2 of dwelling unit size; and  
3

4           **WHEREAS**, the Council re-considered the ordinance at a public meeting on June 20,  
5 1995, and unanimously agreed to adopt the modified version without the increase in  
6 square footage for the accessory units and with a sunset clause; and  
7

8           **WHEREAS**, the Council found the amendments in the best interest of the public  
9 health, safety, and welfare; and  
10

11           **WHEREAS**, the Council has adopted the following Findings and Conclusions:  
12

13           **FINDINGS**  
14

- 15           1.    Accessory dwellings have been more numerous than anticipated.
- 16
- 17           2.    Processing them as Conditional Uses delays the applicant and ties up the system  
18 for little purpose as they are based on specific criteria.
- 19
- 20           3.    Utilizing the Administrative Approval process could be a desirable alternative to the  
21 Conditional Use process.
- 22
- 23           4.    Creating a requirement to notify property owners within 300-feet and having a  
24 formal process to have a hearing when there is a neighborhood concern adds  
25 protection to the Administrative Approval process which could make it a more  
26 useful tool generally.
- 27
- 28           5.    Lummi Island has limitations regarding water and additional density is not  
29 appropriate.
- 30
- 31           6.    Providing flexibility in Lake Whatcom creates an opportunity to have less intensified  
32 uses in the watershed which is in keeping with the goals and policies for the  
33 watershed.
- 34

35           **CONCLUSION**  
36

- 37           1.    Modifying the Administrative Approval process and using it for accessory dwelling  
38 units will streamline the process without precluding protection to surrounding  
39 property owners.
- 40
- 41           2.    Providing the flexibility in the Lake Whatcom Watershed and on Lummi Island to  
42 substitute accessory dwellings for regular dwellings is in keeping with the water  
43 quality goals in these areas.
- 44
- 45

46           **NOW, THEREFORE, BE IT ORDAINED** by the Whatcom County Council that:  
47

1 Section 1. Amend Title 20, the official Whatcom County Zoning Code, as follows:

2  
3 Delete the following Conditional Uses from Title 20:

- 4 20.20.158
- 5 20.22.161
- 6 20.32.158
- 7 20.34.160
- 8 20.36.169
- 9 20.64.165

10  
11 Add an Administrative Approval Section, 20.64.130, to Chapter 20.64.

12  
13 Add the following text to 20.20.130; 20.22.130; 20.32.130; 20.36.130; 20.64.130:

14  
15 .132 Accessory apartments or detached accessory dwelling units to single-family  
16 dwellings; ~~except in the Lake Whatcom Watershed~~; provided that ~~all of the~~  
17 ~~following approval requirements are met~~:

- 18  
19 (1) In addition to an existing or permitted dwelling, there shall be no more than  
20 one (1) ~~per lot~~ of the following: temporary second dwelling, accessory  
21 apartment, or detached accessory dwelling unit ~~per lot~~;
- 22  
23 (2) The owner(s) of the single-family lot upon which the accessory apartment or  
24 detached accessory dwelling unit is located shall occupy as their primary  
25 domicile at least one (1) of the dwelling units on that lot;
- 26  
27 (3) ~~Adequate provision has been made for the disposal of sewage, waste, and~~  
28 ~~stormwater runoff generated by the occupancy of such accessory units. For~~  
29 ~~units, proof of that adequate provisions have been made for potable water~~  
30 ~~availability, sewage disposal, waste disposal, and stormwater runoff for the~~  
31 ~~additional dwelling unit must be obtained prior to application for a building~~  
32 ~~permit~~;
- 33  
34 (4) There shall be only one (1) front entrance to the house visible from the front  
35 yard and street for accessory apartments and only one additional entrance  
36 visible from the front yard for detached accessory dwelling units;
- 37  
38 (5) An accessory apartment shall be clearly a subordinate part of an existing  
39 residence;
- 40  
41 (6) In no case shall an accessory apartment be larger than 1,000 square feet;
- 42  
43 (7) Detached accessory dwellings ~~shall~~ ~~must~~ not exceed 1,000 square feet;
- 44  
45 (8) Long plats ~~and short plats which are granted after January 25, 1994,~~  
46 ~~adoption of this amendment~~ shall be marked, specifically designating lots  
47 allowed to be developed with accessory apartments or detached accessory

1 dwelling units at the option of the developer for future individual owners.  
2 Accessory apartments and detached accessory dwelling units shall be  
3 prohibited on:  
4

5 (a) All lots in long plats which received preliminary plat approval after  
6 January 25, 1994, unless those lots have been specifically marked  
7 for such use through the long plat process.  
8

9 (b) All lots within short plats which received approval after January 25,  
10 1994, unless those lots have been specifically marked for such use  
11 through the short plat process.  
12

13 (c) All reserve tracts within long plats and short plats created by the  
14 cluster subdivision method.  
15

16 (9) A common driveway serving both the existing unit and any accessory unit  
17 shall be used to the greatest extent possible;  
18

19 (10) A deed restriction is recorded with the Whatcom County Auditor prior to at  
20 the time of building permit issuance, stating:  
21

22 (a) Detached accessory dwelling units and associated land cannot be  
23 sold separately from the original dwelling; except in the event the  
24 zoning permits is changed to another zone district that would permit  
25 such a land division; and  
26

27 (b) One of the dwellings must be the primary domicile of the owner.  
28

29 (11) Accessory apartments and detached accessory dwelling units to single-  
30 family dwellings shall be allowed within the Lake Whatcom Watershed,  
31 under the following circumstances:  
32

33 (a) Development of the parcel with the primary residence and accessory  
34 apartment or detached accessory dwelling shall conform to the  
35 density of the zoning district in which it is located. Adjacent  
36 properties in the same ownership may be bound by covenant to  
37 comply with the underlying zoning density; and  
38

39 (b) All of the above approval requirements shall be met for so long as the  
40 accessory unit remains.  
41

42 (c) In all zones, minimum lot size shall be five (5) acres.  
43

44 Add the following text to 20.34.130:  
45

46 :132 Accessory apartments or detached accessory dwelling units to single-family  
47 dwellings provided that all of the following approval requirements are met:

1                    *This language is the same as the language for other zone districts above*  
2                    *except that item (11) shall read as follows:*

3  
4                    (11) Development of the parcel with the primary residence and accessory  
5                    apartment or detached accessory dwelling shall conform to the  
6                    density requirements of section 20.34.250. Properties in the same  
7                    ownership may be bound by covenant to comply with the underlying  
8                    zoning density.

- 9  
10 Amend            20.20.130  
11                    20.22.130  
12                    20.32.130  
13                    20.34.130  
14                    20.36.130  
15                    20.40.130

16 as follows:

17  
18 20.20.130    Administrative Approval Uses

19  
20 The following uses are permitted subject to joint administrative approval by the Director of  
21 Planning and the Deputy Director of Public Works, Buildings and Code Division pursuant to  
22 WCC 20.84.200.235.

23  
24                    .131 (no change)

- 25  
26                    (1) (no change)  
27                    (2) (no change)

28  
29 Approval Requirements

30  
31 Administrative Approval for temporary second dwelling units shall be considered by  
32 the Director of Planning and the Deputy Administrator of the Buildings and Code  
33 Division or their designee(s) who shall jointly approved such use if it is determined  
34 that the proposal meets the following requirements: .... [no change to remainder of  
35 text.]

36  
37 Amend 20.84.200.235 as follows:

38  
39 .235 Administrative Approval Uses

- 40  
41 (1) The applicant shall submit an Administrative Approval Use  
42 Checklist/Approval Form to the Planning and Development Services  
43 Department Buildings and Code Division together with appropriate  
44 documentation of compliance with approval requirements, a filing fee of  
45 \$35, names, and addresses, of all adjacent property owners, and stamped,  
46 addressed envelopes, for all adjacent property owners within 300 feet of the  
47 external boundaries of the subject property, and at least three (3) copies of a

1 site plot plan at an appropriate scale a scale of not less than 1" = 20'  
2 showing locations of property boundaries, locations and sizes of structures,  
3 access and parking areas, locations and types of water and sewer services,  
4 and locations and types of structures on adjacent properties.  
5

6 (2) Upon receipt of application materials per section (1) above, the Planning and  
7 Development Services Department Division of Buildings and Code  
8 Administration shall send a notice of the proposal to all owners of property  
9 within 300 feet of the external boundaries of adjacent to the subject  
10 property at least ten (10) days prior to the decision date. The applicant shall  
11 also post public notices of the proposal on all road frontages of the subject  
12 property so as to be visible to adjacent property owners and to passing  
13 motorists. Said notices shall be provided to the applicant by the Planning  
14 and Development Services Department Buildings and Code Division and shall  
15 remain in place for at least ten (10) days prior to the decision. An affidavit  
16 of posting that shall be signed, notarized and returned at least one week  
17 prior to the decision shall also be provided at the time of application.  
18 Property owners who have been notified of the proposal shall have a period  
19 of ten (10) days from the date printed on the mailed notice or ten (10) days  
20 from the posting of notice on the property, whichever is later, within which  
21 to submit to the Planning and Development Services Department Buildings  
22 and Code Division a written response in support or in opposition to the  
23 proposal request for a public hearing. Such request shall document valid  
24 grounds for holding a hearing, specifying how the proposal adversely  
25 impacts him or her. The Planning and Development Services Department  
26 shall submit the application to the Hearing Examiner, who shall hold a public  
27 hearing and approve or deny the Administrative Approval Use application.  
28 The Hearing Examiner shall base a decision upon compliance with the criteria  
29 established for the proposed use in the appropriate zone district, the  
30 requirement of this section and of WCC 20.84.220. Planning and  
31 Development Services shall approve or deny all Administrative Approval Use  
32 applications that do not require a public hearing.  
33

34 ~~(3) Once the public notice requirements set forth in (2) above are completed and~~  
35 ~~the approval requirements set forth below are met to the satisfaction of the~~  
36 ~~Director of Planning and the Deputy Administrator of the Buildings and Code~~  
37 ~~or their designee(s), the permit shall be issued within fifteen (15) days of the~~  
38 ~~date of receipt of the Administrative Approval Use Checklist/Approval form,~~  
39 ~~required fees, information and documentation.~~  
40

41 ~~(3) (4) If the permit is denied, the applicant shall be notified in writing within fifteen~~  
42 ~~days of the initial application. The grounds for denial and the applicant's~~  
43 ~~right to appeal shall be set forth in this notification. The applicant has the~~  
44 ~~right to established appeal procedures for administrative decisions.~~  
45

46 ~~(4) (5) Within five days after an Administrative Approval is granted or denied under~~  
47 ~~this section, any party of record may appeal the decision to the Hearing~~

1 ~~Examiner.~~ For purposes of administering this section, parties of record shall  
2 be defined as the applicant, the owner of the property, ~~and any person who~~  
3 ~~has submitted a written response to the proposal, and any person who has~~  
4 ~~testified at a required hearing.~~ Each application for appeal of an  
5 Administrative Approval shall be accompanied by a fee ~~as specified in~~  
6 ~~Section 20.84.250(5) WCC.~~  
7

8 Section 2. Increase the unified fee schedule for Administrative Approval Uses from \$35  
9 to \$125.

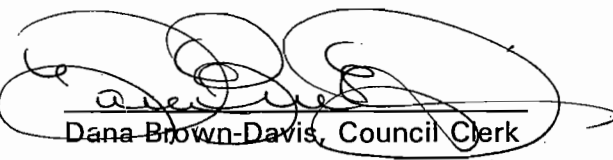
10  
11 Section 3. This ordinance, as adopted, or as hereafter amended, is repealed effective  
12 June 15, 1996, unless re-enacted prior to that date.

13  
14 Section 4. Adjudication of invalidity of any of the sections, clauses, or provisions of  
15 this Ordinance shall not affect or impair the validity of the Ordinance as a  
16 whole or any part thereof other than the part so declared to be invalid.  
17

18  
19 ADOPTED this 20 day of June, 1995.  
20

21  
22  
23  
24 ATTEST:

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON

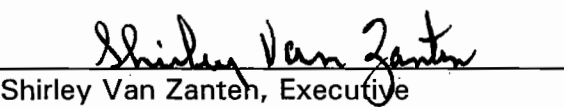
25  
26  
27   
28 Dana Brown-Davis, Council Clerk

29   
30 Robert A. Imhof, Chairperson

31  
32  
33 APPROVED as to form & content:

Approved ( ) Denied

34  
35   
36 Karen Frakes, Civil Deputy Prosecutor

37   
38 Shirley Van Zanten, Executive

39  
40 Date: 7-10-95