

WHATCOM COUNTY COUNCIL AGENDA BILL

NO. 1999 - 289

CLEARANCES	Date	Date Received in Council Office	Agenda Date	Assigned To
Orig. Dept.: Planning & Develop	7/28/99		8/10/99	Council
Division Head:				
Dept. Head:				
Prosecutor:				
Budget:				
Executive:				

SUBJECT:

Ordinance amend WCC Title 20 zoning text Chapter 20.72

ATTACHMENTS

Ordinance

SUMMARY STATEMENT:

Related County Contract #:	Should the Clerk schedule a hearing? (Y/N N Requested Date:
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This ordinance would amend the Point Roberts Special District of the Official Whatcom County Zoning Ordinance, Title 20, Sections 20.72.010, 20.72.150, 20.72.202-204, 20.72.260, 20.72.400, and 20.72.652-654, and to add new Section 20.72.202 and 20.72.206-208 to address land uses and development standards in Point Roberts.

RECOMMENDED MOTION (for final action):

COUNCIL ACTION TAKEN:

1999 - 289 7/27/99: Introduced
 8/10/99: Adopted 6-0, Brown absent Ord. #99-044

Related File Numbers:

Ordinance or Resolution Number (this item only):

ORD. #99-044

SPONSORED BY : Consent
PROPOSED BY: Planning
INTRODUCTION DATE: 7/27/99

ORDINANCE NO. 99-044

**ADOPTING AMENDMENTS TO THE WHATCOM COUNTY
TITLE 20 ZONING TEXT CHAPTER 20.72**

WHEREAS, Whatcom County Code, Title 20, Chapter 90 provides direction for docketing zoning map and text amendments and such docket was initiated and processed for 1998; and

WHEREAS, The Deputy SEPA Official for Whatcom County issued a determination of non-significance on November 4, 1998; and

WHEREAS, Pursuant to RCW 36.70.590, legal notice was published in the Bellingham Herald on October 31, 1998, November 26, 1998, January 4, 1999, January 14, 1999, February 11, 1999, February 27, 1999, March 11, 1999, March 25, 1999, April 11, 1999; and

WHEREAS, The Planning Commission held public hearings on the proposed amendments on November 12, 1998, December 10, 1998, January 14, 1999, January 28, 1999, February 11, 1999, February 25, 1999, March 11, 1999, March 25, 1999, and April 8, 1999 and considered all testimony; and

WHEREAS, The Planning Commission held a work session on April 22, 1999 to consider all the amendments concurrently, as required by WCC 20.90.070; and

WHEREAS, The Planning Commission has evaluated the merits of each amendment in relationship to the County Wide Planning Policies and the goals, policies and objectives of the Comprehensive Plan, as required by WCC 20.90.070; and

WHEREAS, The County Council decided to split the batch of proposed zoning map and text amendments into separate ordinances to allow adoption of some of the proposed amendments in advance of the other proposed amendments; and

WHEREAS, The County Council has considered the Planning Commission's Findings of Fact, Reasons for Action, and Recommendations for all the amendments, as required by WCC20.10.110, and

WHEREAS, The County Council identified minor wording changes which would clarify and improve readability of the proposed text, but do not change the meaning; and

WHEREAS, The County Council finds that the zoning text amendments, as revised, conform to the Growth Management Act and are consistent with and implement the Comprehensive Plan; and

WHEREAS, the County Council finds the amendments in the best interest of the public, safety, and welfare, based on the following findings and conclusions:

FINDINGS

The Whatcom County Council adopts the Planning Commission's findings relating to the Zoning text amendments as set forth in their Findings of Fact, Reasons for Action, and Recommendations, which are attached as Exhibit 1.

CONCLUSION

Amendments to the Official Whatcom County Zoning Ordinance should be adopted as set forth in the Planning Commission's Findings of Fact, Reasons for Action, and Recommendations.

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

Section 1. The Official Whatcom County Zoning Ordinance text and map (Title 20) is hereby amended as shown in the attached Exhibit 2.

Section 2. Adjudication of invalidity of any of the sections, clauses, or provisions of the Ordinance shall not affect or impair the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

ADOPTED this 10th day of August, 1999

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON


for *Dana Brown-Davis*
Dana Brown-Davis, Council Clerk

Marlene Dawson
Marlene Dawson, Chairperson

APPROVED as to form:


Civil Deputy Prosecutor

Approved Denied


Pete Kremen, Executive

Date: 8-13-99

File # 47-98:ZT - Pt. Roberts Taxpayers

Applicants:

Point Roberts Taxpayers Association
P.O. Box 158
Point Roberts, WA 98281

Description of Proposal: To amend the Point Roberts Special District of the Official Whatcom County Zoning Ordinance, Title 20, Sections 20.72.010, 20.72.150, 20.72.202-204, 20.72.260, 20.72.400, and 20.72.652-654, and to add new Sections 20.72.202 and 20.72.206-.208 to address land uses and development standards in Point Roberts

Findings of Fact:

1. Legal notice was published in the Bellingham Herald on Thursday, March 11, 1999.
2. The Deputy SEPA Official issued a Determination of Non-significance for Whatcom County on November 4, 1998.
3. It is found to be unconstitutional under the *U.S. Constitution-Commerce Clause* to require that timber, which is cut in Point Roberts, must also be processed and consumed in Point Roberts; and to prohibit commercial communication facilities in Point Roberts.
4. The Federal Communications Commission preempts state regulation of communications facilities. Local zoning cannot unreasonably interfere with the development of such facilities.
5. Prohibiting the development of commercial communication facilities is not consistent with the goals and policies of the Whatcom County Comprehensive Plan.
6. The applicant has not provided staff with significant findings which substantiate exceptional zoning standards and restrictions for land use in Point Roberts when the same standards and restrictions would not be applied to other areas of Whatcom County under the same zoning.
7. Updating Title 20 zoning text to correct scrivener's errors and to reflect the current status of the Point Roberts Character Plan would provide further clarification for zoning code interpretation.

Planning Commission Recommendation:

Planning Commission recommends approval of the following text amendment:
Ayes:7 Nays:0 Absent:2

EXHIBIT 2

Chapter 20.72 POINT ROBERTS SPECIAL DISTRICT

Sections:

20.72.010	Purpose.
20.72.020	Application.
20.72.022	Area and applicability.
20.72.050	Permitted uses.
20.72.100	Accessory uses.
20.72.150	Conditional uses.
20.72.200	Prohibited uses.
20.72.250	Minimum lot size.
20.72.260	Maximum density.
20.72.270	Subdivision requirements.
20.72.350	Building setbacks/buffer areas.
20.72.400	Height limitations.
20.72.650	Development criteria.
20.72.651	Facility design.
20.72.652	Areas of special significance: tree retention.
20.72.653	Site design/view corridors.
20.72.654	Public restrooms and trash facilities.
20.72.655	Vehicular access.
20.72.656	Nonvehicular access.
20.72.657	Drainage.

20.72.010 Purpose.

Point Roberts is a unique area of Whatcom County because of its relatively small size, its mixed urban/rural character, its past development pattern, its relative isolation and the constraints on normal growth patterns caused by the impact of access only via an international border crossing. This uniqueness creates potential problems with direct application of other zone districts within this title. The Point Roberts Special District is an overlay zone which will impose additional controls and create opportunities not available in the underlying zone districts to fit them to the needs of Point Roberts. This district is designed to protect the unique character of Point Roberts while allowing for more efficient opportunities for growth and more equitable value on property through transfer of development rights.

20.72.020 Application.

20.72.022 Area and applicability.

The Point Roberts Special District is an overlay zone which covers the entire geographic area of Point Roberts. Any regulations contained herein which are more restrictive than those in the underlying zone districts or in the Shoreline Management Program shall apply. Opportunities, or lesser restrictions, such as increased densities through transfers of development rights shall also override the requirements of the

underlying zone. However, if the provisions of this chapter conflict with the provisions of the Shoreline Management Program, then the most restrictive shall apply.

20.72.050 Permitted uses.

All permitted uses in the underlying zone districts are permitted except as expressly prohibited or made conditional, or further conditioned by this chapter.

20.72.100 Accessory uses.

All accessory uses in the underlying zone districts are permitted as accessory uses.

20.72.150 Conditional uses.

All conditional uses in the underlying zone districts shall remain conditional uses unless expressly prohibited by this chapter. In addition, the following uses shall only be conditionally permitted:

.151 Hotels, motels and time share condominiums.

.152 Surface and subsurface mining including the extraction of sand and gravel shall be conditionally permitted in the Rural zone under the provisions set forth in WCC 20.36.150 with the added provisions that in order to protect the nonrenewable resources of Point Roberts and to assure future availability of these resources for development projects at Point Roberts the hearing examiner shall find that the sand and gravel being extracted pursuant to this section shall be used only for specific identified projects at Point Roberts.

.153 In the Resort Commercial District in the Point Roberts Marina area east of and outside the boundaries of the property subject to the approvals granted under MDP 2-75, the following uses are conditionally permitted only:

(1) Dry boat storage including stacked storage and boat trailer storage.

(2) Commercial sales of goods or services primarily related to boating not to exceed a total of 20,000 square feet of gross floor area.

(3) Manufacture and repair of boats; provided that total floor area for such use shall not exceed 10,000 square feet.

(4) Other light manufacturing uses associated with marina facilities not to exceed a total of 20,000 square feet of gross floor area for the district, and provided no single use exceeds 4,000 square feet of gross floor area, and further provided the performance standards of the district (WCC 20.64.700) are met.

(5) One residential unit for owner, manager, or caretaker when part of a building in which an approved use is located.

(6) Greenhouse and nursery facilities.

20.72.200 Prohibited uses.

In addition to the uses prohibited in the underlying zone districts, the following uses are prohibited:

.201 Service stations in all zones, including expansion of existing service stations by adding additional pumps or hose dispensers.

.202 The following uses are prohibited in the Resort Commercial Zone District in the Maple Beach area of Point Roberts:

(1) Rooming houses.

(2) Taverns.

(3) Commercial parking lots or garages.

.203 Neighborhood grocery stores are prohibited in the Rural Zone.

.204 In the Resort Commercial District in the Point Roberts Marina area east of and outside the boundaries of the property subject to the approvals granted under MDP 2-75 all uses not conditionally permitted in WCC 20.72.153 are prohibited.

20.72.250 Minimum lot size.

.251 Where the cluster subdivision option is used to protect a critical area, a parcel size reduction of 5 percent may be granted where average parcel size (except the reserve tract) is less than 10,000 square feet and 10 percent where average parcel size (except the reserve tract) is 10,000 square feet or more may be granted only if the resultant lots are able to meet the applicable development standards of this title and other county ordinances, including setbacks and minimum reserve tract area.

20.72.260 Maximum density.

.261 Except as modified by this chapter, all residential densities in the general commercial and resort commercial zones shall not exceed eight units per acre.

~~.262 Densities may be increased using the cluster subdivision option as provided for in the text of the applicable Title 20 zone districts.~~

~~.263 Where the cluster subdivision option is used to preserve an environmentally sensitive area, an additional density bonus of 5 percent where average size of parcels in the cluster subdivision (excluding the reserve tract) is less than 10,000 square feet and 10 percent where average parcel size (except the reserve tract) is 10,000 square feet or more may be granted only if the resultant lots are able to meet the applicable development standards of this title and other county ordinances, including setbacks and minimum reserve tract area.~~

20.72.270 Subdivision requirements.

.271 The UR-3 and R-10A Zone Districts south of APA Road between Paul's Road and the Boundary Heights subdivision shall apply only for the purposes of a planned unit development pursuant to Chapter 20.85 WCC. The zoning shall be R-5A for the purpose of creation of any additional parcels utilizing any other method.

20.72.350 Building setbacks/buffer areas.

Building setbacks along Tye Drive are increased to 50 feet. In existing treed areas along Tye Drive a 50-foot vegetative buffer comprised of existing trees shall be maintained for visual of aesthetic purposes except for necessary ingress and egress points. In open areas a 50-foot planted buffer shall be developed as part of the normal landscape requirements for site development.

20.72.400 Height limitations.

.401 The maximum building height in all zones shall be 25 feet unless further restricted by the Whatcom County ~~s~~Shoreline ~~m~~Management ~~p~~Program or the requirements of an the adopted character plan. Height of structures shall also conform to the general requirements of WCC 20.80.675 where applicable.

.402 Through the conditional use permit process, the maximum building height for any use may be increased to 45 feet under the following conditions:

(1) The resultant higher structure will not unreasonably impede views from other properties any more than would a similar structure of the same mass which conforms to the 25-foot maximum building height.

(2) Building setbacks pursuant to this chapter and WCC 20.80.200 shall be increased by one foot for each foot of building height in excess of 25 feet as applicable to all setbacks.

20.72.650 Development criteria.

20.72.651 Facility design.

(1) All structures or developments other than a single-family home on an individual lot shall conform to the requirements of the Point Roberts Character Plan.

(2) Manufactured housing on individual lots shall also be subject to any design standards established in a character plan. In lieu of such a plan, manufactured homes shall be a minimum of 20 feet wide, shall be installed on a permanent foundation, skirted to the ground and shall be in compliance with all applicable requirements of the Uniform Building Code as adopted by Whatcom County.

20.72.652 Areas of special significance: tree retention.

Section Preamble. Point Roberts contains a unique forest habitat which supports a number of unusual or rare animal species. Lily Point at Point Roberts is recognized as a significant native American burial ground and a place of special natural, spiritual, cultural, and archaeological significance; the cliffs at Lily Point, are dangerously unstable. Permitted development at Point Roberts should take into account its unique forest habitat, and permitted development at Lily Point shall be consistent with its special significance. In addition to compliance with all other landscaping requirements of this title and other titles of the Whatcom County Code, development other than a single-family house on an individual lot must comply with the following provisions ~~(except that all development must comply with provision #6):~~

(1) The applicant shall retain existing trees over eight inches in caliper as measured four feet above ground level to the maximum extent feasible. The county shall require site plan alterations to achieve maximum tree retention.

(2) Existing vegetation may be used to meet all or part of the landscaping requirements of this title.

(3) If any vegetation designated for retention is damaged or destroyed through the fault of the applicant, agent or successor, the applicant, his agent or successor shall restore the site pursuant to a restoration plan approved by the county.

(4) The county may require a bond or other security to guarantee retention of existing trees during construction. In the event any trees designated by the county to be retained are removed, the county shall have the option of enforcing any bond posted, or require additional trees which may be in excess of those previously in existence.

(5) Any primary project permits, clearing permits, or conversion plans, or logging operations shall require, as part of the permit, an approved logging plan designed to preserve as reasonably feasible the area's woodland character. Standards for such permits may be approved by council resolution.

(6) *(Expired)*.

(7) Buffering which recognizes the need for safety and the unique features of Lily Point shall be required on the point and in such areas no development shall take place.

20.72.653 Site design/view corridors.

All structures or developments other than a single-family home on an individual lot shall conform to any requirements of ~~an~~ the adopted character plan ~~if such a plan is in place. In lieu of a character plan s~~ Scenic views shall be considered in all developments and the site plan designed to ensure view access is maximized consistent with reasonable development of the site.

20.72.654 Public restrooms and trash facilities.

All commercial establishments on Point Roberts that are open to the public shall make adequate provision for trash disposal and handicapped-accessible public restrooms ~~and trash disposal~~. Establishments with less than four employees on premises at one time may utilize a unisex facility. Commercial complexes may provide common restrooms and/or trash disposal, or two or more establishments in one commercial area may jointly provide for such facilities, subject to appropriate agreements or covenants to ensure the facilities are available and properly maintained.

20.72.655 Vehicular access.

Driveways and curb cuts shall be minimized along all collector roads. Each existing lot shall be allowed only one driveway or curb cut; adjacent lots are encouraged to share access points. In new developments, lots or leased sites shall be oriented toward internal driveways, parking areas, or roads, with limited access to collector roads. These access points should normally not be closer than 400 feet apart. In the General Commercial area at the intersection of Tye Drive and Benson Road one additional access on Tye Drive and one additional access on Benson Road shall be allowed for the area north of Benson Road and one each for the area south of Benson Road. Existing businesses shall be encouraged to reorient to an internal circulation pattern as it develops. Where a fragmented ownership pattern precludes use of a parcel prior to an internal circulation system being developed an applicant may be given a temporary access easement to Tye Drive or Benson Road subject to entering into an agreement to provide future right-of-way or easements and fair share development funds which will allow internal circulation for the commercial area. Circulation for each area may be by dedicated public streets built by a local improvement district or other methods or it may be private internal circulation through a common parking lot.

20.72.656 Nonvehicular access.

(1) ~~Other than a single-family house on an individual lot, a~~ Commercial development of any parcel along a collector street shall require appropriate street improvements along the road frontage of the parcel which may include including curbs, gutters, and sidewalks and appropriate provision for bicycle and equestrian facilities in accordance with applicable comprehensive plan policies, ~~and~~ land use regulations and current road standards, unless a lesser standard is approved by the County Engineer. At the discretion of the division of engineering, funds may be provided in lieu of development. This requirement may be waived if a local improvement district, road

improvement district, or transportation benefit district is formed for the purpose of providing the aforementioned improvements.

(2) ~~Other than a single family house on an individual lot,~~ Commercial development of any parcel along a collector street shall require a no protest agreement to participate in a local improvement district, road improvement district, or transportation benefit district.

20.72.657 Drainage.

All development activity within Whatcom County shall be subject to the stormwater management provisions of the Whatcom County Development Standards unless specifically exempted. No project permit shall be issued prior to meeting submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards.