

WHATCOM COUNTY COUNCIL AGENDA BILL

NO. 2006-388

CLEARANCES	Initial	Date	Date Received in Council Office	Agenda Date	Assigned to:
Originator:	KO	9/16/06	RECEIVED OCT 03 2006 WHATCOM COUNTY COUNCIL	10/10/06	Introduction
Division Head:	HHW	9/18/06		10/24/06	P&D/Council
Dept. Head:	HHW	9/18/06			
Prosecutor:	HHW	9-22-06			
Purchasing/Budget:					
Executive:	JW	10-3-06			

TITLE OF DOCUMENT: *Zon2004-00012, Amendment to the official Whatcom County Zoning Code, specifically adding on-farm processing to chapter 20.36.130 - administrative uses, 20.36.150 – conditional uses, 20.40.100-accessory uses, 20.40.138 – administrative uses, deleting select text from 20.36.162, deleting 20.40.158, adding agricultural processing, permanent employee and ~~seasonal employee~~^{3w} definitions to chapter 20.97 – definitions and adding lot coverage restriction – chapter 20.40.450.*

ATTACHMENTS: *Proposed Ordinance, Planning Commission Motion, Original Staff Report, Supplemental Staff Report, and Planning Commission Minutes*

SEPA review required? (X) Yes () NO Should Clerk schedule a hearing ? () Yes (X) NO
 SEPA review completed? (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.)*

Amendment to Whatcom County Code 20.36 – Rural District, 20.40 – Agriculture District, and 20.97 – Definitions, for the purpose of adding additional language to accommodate on-farm processing of agricultural products. In addition, a maximum lot coverage provision is also included in the proposed changes.

COMMITTEE ACTION:

10/24/2006: Forwarded to Council for approval

COUNCIL ACTION:

10/10/2006: Introduced
 10/24/2006: Council Adopted 7-0
 Ord. 2006-048

Related County Contract #:

Related File Numbers:

Ordinance or Resolution Number: Ord. 2006-048

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.*

SPONSORED BY: Consent
PROPOSED BY: Planning
INTRODUCTION DATE: 10/10/06

ORDINANCE # 2006-048

AMENDMENTS TO THE OFFICIAL WHATCOM COUNTY ZONING ORDINANCE, SPECIFICALLY ADDING ON-FARM PROCESSING TO CHAPTER 20.36.100-ADMINISTRATIVE USES, 20.36.150-CONDITINAL USES, 20.40.100-ACCESSORY USES, 20.40.138-ADMINISTRATIVE USES, DELETING SELECT TEXT FROM 20.36.162, DELETING 20.40.158. ADDING AGRICULTURAL PROCESSING AND PERMANENT EMPLOYEE DEFINITIONS TO CHAPTER 20.97-DEFINITIONS AND ADDING LOT COVERAGE RESTRICTION TO CHAPTER 20.40.450.

WHEREAS, the proposed zoning text amendments shall be considered pursuant to WCC 20.90; and

WHEREAS, notice of the Planning Commission hearing for the subject amendment was published in the Bellingham Herald on April 19, 2006; and

WHEREAS, notice of the subject amendment was sent to state agencies, including the Department of Community, Trade and Economic Development (CTED), on May 5, 2006; and

WHEREAS, the SEPA Official has issued a Determination of Non-Significance on April 19, 2006; and

WHEREAS, the Planning Commission held a public hearing relating to the subject amendment on April 27, 2006; and

WHEREAS, the Planning Commission received testimony and deliberated the merits of the proposal and provided their findings and recommendations for Council review and consideration; and

WHEREAS, the County Council at its July 25, 2006 meeting, unanimously motioned to remand the proposed text zoning text amendment back to the Planning Commission with the request that similar provisions for on farm processing be incorporated into Rural zoning text; and

WHEREAS, notice of the Planning Commission hearing for the supplemental text amendment was published in the Bellingham Herald on July 28, 2006; and

WHEREAS, notice of the subject supplemental amendment was sent to state agencies, including the Department of Community, Trade and Economic Development (CTED), on August 4, 2006; and

WHEREAS, the SEPA Official has issued a Determination of Non-Significance on August 1, 2006; and

WHEREAS, the Planning Commission received testimony and deliberated the merits of the supplemental proposal and provided their findings and recommendations for Council review and consideration.

The Council makes the following findings of fact and conclusions:

FINDINGS OF FACT

1. Notice of the Planning Commission public hearing for the subject amendment was published in the Bellingham Herald on April 13, 2006. The Whatcom County Planning Commission held a public hearing on the proposed text amendment on April 27, 2006.
2. A determination of non-significance was issued on April 19, 2006, under the State Environmental Policy Act (SEPA).
3. Whatcom County's Agricultural Advisory Committee requested that this proposed text amendment be docketed and has reviewed and endorsed this proposal (see correspondence dated February 22, 2006).
4. The County Council at its July 25, 2006 meeting, unanimously motioned to remand the proposed text zoning text amendment back to the Planning Commission with the request that similar provisions for on farm processing be incorporated into Rural zoning text.
5. Notice of the Planning Commission hearing for the supplemental text amendment was published in the Bellingham Herald on July 28, 2006
6. The Planning Commission received testimony and deliberated the merits of the supplemental proposal
7. Conditional Use Requirements for common on-farm processing of local farm products are contrary to the GMA in that the majority of Conditional Use Criteria as included in WCC 20.84.220, were for the protection of neighboring uses from impacts associated with agricultural activities associated with the processing operation.

8. WCC 20.40 – Agriculture District lacked a lot coverage provision. The lack of such a provision leaves designated high quality soils vulnerable to extensive coverage by non soil based agricultural uses.
9. The addition of the lot coverage provision includes a provision to redirect uses that require greater than 25% lot coverage to lesser quality soils.
10. The proposed supplemental text only applies to Rural R5A and R10A zoning districts.

CONCLUSIONS

1. The proposal complies with the Goals and Policies of the County Comprehensive Plan.

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

Section 1. The Official Whatcom County Zoning Ordinance, Title 20, is hereby amended as shown in Exhibit A.

Section 2. Adjudication of invalidity of any of the sections, clauses, or provisions of this 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 24 day of October, 2006



Dana Brown-Davis, Council Clerk

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Laurie Caskey-Schreiber
Chairperson, Laurie Caskey-Schreiber

APPROVED as to form:

[Signature]
Civil Deputy Prosecutor

Approved Denied

[Signature]
Pete Kremen, Executive

Date: 10-31-06

Exhibit A

20.36 RURAL DISTRICT

20.36.130 Administrative approval uses.*

.135 Cottage industries employing no more than two on-site people other than family members residing on the premises; provided, that in addition to the criteria found in WCC 20.84.220 and 20.97.087:

(1) The zoning administrator, at his or her discretion, may place limitations on the square footage in an existing or new structure used for a cottage industry and construction of new buildings to house said activity shall not, in any case, exceed 2,500 square feet of total floor area. The total land area used for buildings and outside storage or other uses related to the cottage industry shall not exceed 10,000 square feet or 25 percent of the site, whichever is less.

(2) The parcel size shall not be less than one acre.

(3) In the event materials will be stored outdoors, the zoning administrator shall require adequate landscaping, screening, or other devices in order that the material will not be visible by surrounding uses or roads.

(4) One nonilluminated sign, not to exceed eight square feet in size, mounted on the property, is permitted. A larger sign up to 32 square feet may be approved by the hearing examiner as a conditional use.

(5) Seasonal employees working less than 21 days per year will not be counted as employees if they are engaged in work directly related to agriculture or forestry.

.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 a 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% agricultural goods produced in Whatcom County and originate from permitted uses.

(4) The facility employs no more than 10 permanent employees.

(5) The facility does not exceed 10,000ft² in proposed and existing buildings (as defined by WCC 20.97.035) devoted to agricultural processing.

20.36.150 Conditional uses.*

.162 Small scale commercial processing of agricultural and forestry products on a permanent basis, utilizing permanently installed equipment, and provided the use is compatible and augments the economic viability of the forest or local agricultural community, appropriate provision is made of water to meet fire flow standards, and is consistent with applicable local, state and federal standards and regulations.

.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 a slaughterhouse or mushroom substrate production facility.

(2) The facility processes at least 50% agricultural goods produced in Whatcom County and originate from permitted uses.

(3) The facility employs over 10 permanent employees.

(4) The facility exceeds 10,000ft² in proposed and existing buildings (as defined by WCC 20.97.035) devoted to agricultural processing.

20.40 AGRICULTURE DISTRICT

20.40.100 Accessory uses.*

.109 Home occupations, when in compliance with the following:

(1) The occupation or profession shall be carried out wholly within the principal or accessory buildings; and

(2) Not more than two persons outside the immediate family shall be employed in the home occupation.

.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 a 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% agricultural goods produced in Whatcom County and that originate from permitted uses.

(4) The facility employs no more than 20 permanent employees.

20.40.130 Administrative approval uses.

.136 Surface mining subject to Washington State's Surface Mining Act (Chapter 78.44 RCW), and accessory washing and sorting, when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations. Site reclamation must be to agricultural use within any MRLs adopted after May 1, 2001. No off-site dust shall be generated from the operation.

.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 a 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% 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 WCC 20.84 – Conditional Use are applied to on-farm processing application reviews: (4) 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, (5) 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 (7) 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.

.137 8 Mini-day care centers in a family dwelling.

20.40.150 Conditional uses.*

.157 Rendering plants.

~~.158 Processing and wholesale and/or retail uses of agricultural products accessory to farm generated or produced commodities utilizing permanent equipment; provided the locations, scale and character of the operation is determined by the hearing examiner to be appropriate in the specific situation and to the Agriculture District, in general.~~

.159 Transitory solid waste facilities for treatment, storage, or collection, including, but not limited to: recycle centers and drop boxes for household materials excluding large items such as automobiles or major appliances; noncommercial or commercial composting and mulching facilities; and including but not limited to the types of facilities operated by neighborhood or public service organizations.

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:

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

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

- (c) Expansion of facilities that were in operation prior to the adoption of this ordinance 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.

20.97 DEFINITIONS

20.97.010.1 Agricultural Processing

Agricultural processing means the transformation, either chemically or physically, of raw agricultural goods including but not limited to washing, grading, sizing, drying, extracting, icing, producing ornamental agricultural products, sorting, cutting, pressing, bagging, freezing, canning, packaging, milling, crushing, fermenting, aging, pasteurizing, preserving, storage, bottling, but excluding slaughtering of livestock. Agricultural processing includes those process steps associated with product preparation and processing. Storage, warehousing and distributing products in conjunction with the agricultural processing activity occurring on that site shall be allowed.

20.97.294 Permanent Employee

A permanent employee is someone employed during regular seasons more than 26 weeks within a period of 48 consecutive weeks.