



*WHATCOM COUNTY COUNCIL AGENDA BILL*

*NO. 2008 - 398 A*

CLEARANCES	Date	Date Received in Council Office	Agenda Date	Assigned To
Orig. Dept.:	2/24/2009		2/24/2009	Introduction
Division Head:			3/17/09	Public Hearing
Dept. Head:				
Prosecutor:				
Budget:				
Executive:				

*SUBJECT:*

Ordinance amend WCC pedestrian oriented streetscapes - w/out 20.80.211 language

*ATTACHMENTS*

*SUMMARY STATEMENT:*

Related County Contract #:	Should the Clerk schedule a hearing? (Y/N) Y	Requested Date: 3/17/2009
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Ordinance adopting amendments to the Whatcom County Code, Title 20, to include regulations and incentives that result in the creation of pedestrian oriented streetscapes in urban growth areas; and also adopting amendments to Chapter 20.97 to add definitions that clarify terms used to describe elements of the streetscape. This version of the streetscape ordinance does not contain language to add section 20.80.211, Front Loaded Garage Setbacks, to the code.

*RECOMMENDED MOTION (for final action):*

*COUNCIL ACTION TAKEN*

2/24/2009: Introduced

3/17/2009: Council Adopted 6-1 Kelly opposed  
Ord. 2009-010

*Related File Numbers:*

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

Ord. 2009-010

SPONSORED BY: Consent

PROPOSED BY: PDS

INTRODUCTION DATE: 2/24/2009

ORDINANCE # 2009-010

ADOPTING AMENDMENTS TO THE OFFICIAL WHATCOM COUNTY ZONING ORDINANCE, TITLE 20, TO INCLUDE INCENTIVES THAT RESULT IN THE CREATION OF PEDESTRIAN ORIENTED STREETSAPES IN URBAN GROWTH AREAS, AND ALSO AMENDING CHAPTER 20.97 TO ADD DEFINITIONS THAT CLARIFY TERMS USED TO DESCRIBE ELEMENTS OF THE STREETSCAPE

**WHEREAS**, Whatcom County Planning and Development Services received an application to amend the Official Whatcom County Zoning Ordinance, Title 20; and

**WHEREAS**, Legal notice requirements have been met; and

**WHEREAS**, On Thursday, September 25, 2008, the Whatcom County Planning Commission received the staff's findings and recommendations, and held a public hearing on the proposed amendment and considered all testimony; and

**WHEREAS**, On September 25, 2008, the Whatcom County Planning Commission voted unanimously to forward a recommendation of approval for the proposed amendment to the Whatcom County Council; and

**WHEREAS**, On January 27, 2009, the Whatcom County Council considered the Planning Commission's Findings of Fact and Reasons for Action, Conclusions and Recommendation for the proposed amendment and voted to depart from the Planning Commission's recommendation by voting to delete the regulatory provisions from the amendment as proposed; and

**WHEREAS**, On February 24, 2009, the Whatcom County Council held a public hearing to consider all testimony on the modified version of the amendment as amended by Council, and after discussion a motion was made to re-introduce the version of the amendment as *originally recommended* by the Planning Commission and also to re-introduce the *modified version* as amended by Council so that both versions of the amendment could be considered at public hearings scheduled on March 17, 2009; and

**WHEREAS**, On March 17, 2009, the Whatcom County Council held a public hearing to consider the modified version of the amendment as amended by Council, and after hearing all testimony, the Council voted to approve the modified version of the proposed amendment as amended by Council on January 27, 2009; and

**WHEREAS**, The amendment conforms to the requirements of the Growth Management Act, is consistent with the Goals and Policies of the Whatcom County Comprehensive Plan, the County-Wide Planning Policies, and has been evaluated for consistency with the interlocal agreements and comprehensive plans of associated cities; and

**WHEREAS**, The County Council has adopted the following Findings of Fact:

## **FINDINGS OF FACT**

### FINDINGS OF FACT AND REASONS FOR ACTION

1. On January 5, 2007, Whatcom County Planning and Development Services Department received an application to amend the Official Whatcom County Zoning Ordinance that was submitted by Whatcom County Planning Commissioners, John Lesow and Ken Mann. The purpose of the proposed amendment was to include language in the Official Whatcom County Zoning Ordinance that would prevent or discourage garage dominated streetscapes.
2. On June 14, 2007, John Lesow and Ken Mann proposed that the Planning Commission initiate the proposed amendment. Commissioner Burdge moved to support the text amendment as a Commission, Lesow seconded, and the motion carried.
3. On May 8, 2008, during the Planning Commission regular meeting work session, the proposed text amendment was discussed and issues were raised about whether the placement of garages should be addressed with a regulatory mandate, regulatory incentives, or a combination of both of these approaches. Concerns were raised about the potential for increased impervious surfaces resulting from mandated rear lane alleys.
4. On May 30, 2008, City of Blaine planners spoke with County staff regarding the intent of the proposed amendment to provide for more pedestrian oriented streetscapes within the City's urban growth areas. City of Blaine planners were in support of the County's efforts
5. On July 15, 2008, discussion took place between County and City of Bellingham planning staff to assess whether the proposed amendment would be consistent with City regulations. City of Bellingham provided examples of residential design codes and guidelines, and shared copies of 2003 and 2005 Hearing Examiner decisions that set forth conditions intended to reduce the garage dominance of newly constructed residences in housing development project applications.
6. At the July 24, 2008 Planning Commission regular meeting work session, staff presented a research report, and facilitated discussion that resulted in clarification about the intent of the proposed amendment.
7. As a result of the discussion that took place at the July 24, 2008 regular meeting work session, the Planning Commission agreed that the regulations applying to the positioning of garages on lots should be applicable to Urban Residential Zoning Districts within Urban Growth Areas, and directed staff to

draft code provisions that regulate placement of the garage; provide regulatory incentives in the form of density bonuses, reduced front yard setbacks, and address the potential impacts of impervious surfaces that might result from implementation of the proposed regulations if adopted.

8. On August 21, 2008, staff facilitated a collaborative discussion with Whatcom County Building Services, Long Range Planning, Current Planning, Public Works – Engineering, and the Fire Marshal’s Office. Comments and suggestions were received and incorporated into the proposed amendment text. Specifically, it became clear that the amendment should only apply to new construction (not remodels) on newly created lots, and that definitions should also be included for clarity and for ease of implementation. Staff drafted provisions that would only apply in short term planning areas within urban growth areas. These provisions would regulate the placement and the size of front loaded garages relative to the front of the home in urban residential zone districts, and provide incentives in the form of density bonuses and setback reductions for applications submitted as part of a planned unit development when specific criteria such as rear lane garage access, front porches, and low impact development standards (in place at time of application) are met.
9. On August 22, 2008, the Whatcom County State Environmental Policy Act (SEPA) Official issued a SEPA threshold Determination of Non-Significance (DNS) in regards to the proposed text amendment, a non-project action. The comment period for this determination ended on September 5, 2008. No comments were received regarding this determination. The date on which to file an appeal to this determination concluded on September 15, 2008. No appeals were made to this determination.
10. On August 25, 2008, staff held a meeting with City of Everson, Nooksack and Sumas planning staff to discuss a preliminary draft of the proposed amendment. Verbal comments were noted in regards to the potential difficulty of applying the regulations to habitable space above garages and to side loaded garages. The draft was later modified to incorporate a suggestion that garage setback requirements should only apply to “front loaded garages”, and providing that habitable space above the garage should be exempt. It was also noted that definitions be included to clarify terms for ease of implementation.
11. On August 25, 2008, staff spoke with City of Ferndale planning staff regarding the proposed amendment to find out if the regulations would be consistent with City of Ferndale residential development regulations or design standards.
12. On August 26, 2008, City of Ferndale commented that although the concept may be a good one, the City does not believe that the County has the right to develop any guidelines that are not reflected by City code. Staff has noted that there are no apparent inconsistencies between the proposed amendment and City codes.

13. On August 27, 2008, staff reviewed the 1999 Interlocal Agreement between the City of Ferndale and Whatcom County and found that the County and the City recognize and agree that mutual coordination of land use densities and designations is necessary. The City and the County also agree that when processing development applications such as rezones, administrative approval and conditional use permits, subdivisions and planned unit developments, that the County shall consult with the City and invite the City's participation and response when processing these applications for development. Upon reviewing the 1999 Interlocal Agreement, staff noted the absence of any stipulated agreement to indicate that proposed zoning text amendments regarding specific uses within the City's unincorporated Urban Growth Area and within Whatcom County's jurisdiction need to be reflected by City Code.
14. Notice of the subject amendment was sent to the Department of Community, Trade and Economic Development (CTED) and other state agencies on August 29, 2008. On September 3, 2008 CTED notified Whatcom County that notice of the proposed amendment had been received and had been forwarded to other interested parties as required. No comments regarding the proposed amendment have been received from CTED, to date.
15. Notice of the Planning Commission public hearing for the proposed text amendment was published in the Bellingham Herald on September 14, 2008.
16. Staff contacted City of Lynden planning staff on September 16, 2008 to request comments and suggestions regarding the proposed amendment.
17. Pursuant to Whatcom County Code (WCC) 20.90.050, as of September 25, 2008, Whatcom County Planning and Development Services has: 1) Evaluated the proposed amendment in relationship to the goals, objectives and policies of the Whatcom County Comprehensive Plan as authorized by the Washington State Growth Management Act (GMA) - RCW 36.70A; 2) Addressed consistency with interlocal planning agreements between the County and associated cities; 3) Considered whether the proposed amendment is consistent with any associated city's comprehensive plan and 4) Considered possible environmental impacts that have been identified by the lead agency designated SEPA official through the State Environmental Policy Act (SEPA) threshold determination process.
18. On September 25, 2008, the Whatcom County Planning Commission held a public hearing related to the subject amendment, and after hearing all testimony, and after revising the definition of "Garages" and adding a new definition for "Front Loaded Garages", the Commission voted unanimously to forward to the County Council, a recommendation of approval for the proposed amendment.
19. On September 25, 2008, and on October 15, 2008 Whatcom County Planning and Development Services Department (PDS) staff received comments from Washington State Department of Community, Trade and Economic Development (CTED) regarding the subject amendment. CTED advised PDS staff to consider the work of other communities who have

adopted street design guidelines that encourage a pedestrian orientation to the streetscape. CTED also suggested that PDS staff consider the work of "Complete the Streets" <http://www.completestreets.org/>, an organization that provides resources and guidance to communities who are in the process of developing pedestrian oriented streetscapes in urban communities.

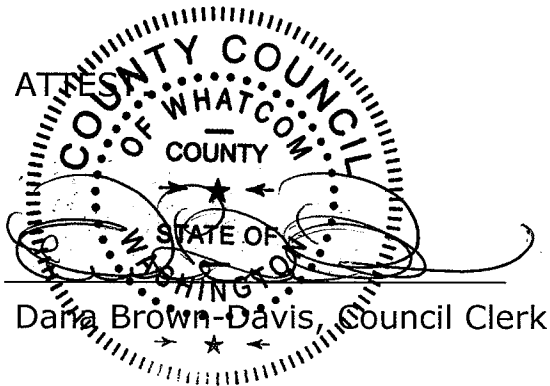
20. On October 27, 2008, staff reviewed the definition of "Front Loaded Garages" that had been revised at the September 25, 2008 public hearing; upon scrutiny, staff determined that the definition was cumbersome, and not easy to understand. Staff reworded the definition so that the meaning was clearer, and the substance remained unchanged.

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 Attachment 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 17th day of March, 2009



WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON

Seth Fleetwood, Chairperson

APPROVED as to form:

Approved       Denied

Royce Buckingham,  
Civil Deputy Prosecutor

Pete Kremen, Executive

Date: 3-20-09

## ATTACHMENT A

### Amendments to the Official Whatcom County Zoning Ordinance – Title 20

#### Chapter 20.85 – Planned Unit Development (PUD)

##### 20.85.102 – General Design Criteria

(1) Major and local streets, the location of all buildings, parking areas, pedestrian bicycle and vehicular ways, and utility easements shall be designed to promote public safety, compatibility of uses, minimize conflict between uses, and reasonably maintain topography and other natural features.

(2) Single and multi-family detached structures shall be designed in such a way as to increase the pedestrian orientation of the streetscape and to decrease the automobile orientation from the streetscape.

##### 20.85.108 – Density Increases

###### (1) (g)

Single and multi-family development projects located in urban residential zoning districts that utilize rear lane or “alley” garage access may be granted a 15 percent increase in base density, provided:

- (i) Garages are located with direct maneuvering off of the alley; and
- (ii) Front porches are included as part of the front building façade; and
- (iii) Site development conforms to Low Impact Development Standards as adopted by Whatcom County in place at time of application.

##### 20.85.109 (6) – Setback Reductions

Setback reductions may be granted for single and multi-family development projects utilizing rear lane or “alley” garage access, provided:

- (a) When front porches that measure a minimum of 6 feet in depth and 10 feet in length are attached to the front building facade, front yard setbacks may be reduced to a minimum of 15 feet from the back of the abutting sidewalk, the designated front property line, or road right of way, whichever is the greater setback.
- (b) Site development conforms to Low Impact Development Standards as adopted by Whatcom County in place at time of application.

## ATTACHMENT A

### Chapter 20.97 – Definitions

20.97.160.1 Front building façade means the exterior front side of a building adjacent to the designated front property line or right of way. For the purposes of measuring garage setbacks, measurements shall be taken from the primary building wall excluding covered porches, decks and other architectural projections.

20.97.160.3 Front porch: A covered entrance to a single or multi-family structure, projecting from and attached to the primary building wall that lies adjacent to the designated front property line, often partially enclosed.

20.97.161.1 Garage: An attached or detached structure in which the primary purpose and function of the design is to accommodate access to, and the storage of automobiles.

20.97.160.2 Front loaded garages: Garages that are accessed from a driveway that is perpendicular to the street or access road, with garage doors parallel to the designated front property line.

20.97.013.1 Alley: A public right of way or easement less than 30' but greater than 10' for use by pedestrians, vehicles, public utilities, and/or other necessary public functions which affords only a secondary means of access to abutting property.