



M E M O R A N D U M

TO: Whatcom County Planning Commission

THROUGH: David Stalheim, Director

FROM: Wain Harrison, Long Range Planning Supervisor
Samya Lutz, Planner

DATE: September 30, 2009

SUBJECT: Setbacks & buffers related to the Rural Element – LAMIRD proposal

The staff memo dated September 18th, and discussed at the September 22nd Planning Commission meeting included options for WCC Title 20 zoning changes, among other things. One bulleted item related to proposed setbacks for commercial areas within LAMIRDs. Here is how the setback issue was framed at the September 22nd meeting:

"Setbacks from adjoining property. PDS staff reviewed setbacks across all commercial and industrial districts after Planning Commission dialog on August 13, and included a consistent 50 foot setback within all rural commercial and industrial districts in the August 20 draft of the Title 20 amendments. Staff also included 'Agriculture' in the list of zoning districts that triggered the setback requirements based on Planning Commission direction. Three options are outlined for how to proceed with setbacks in the RGC (and other rural – commercial) zoning districts:

- Option 1. Make no further changes to the current proposal
- Option 2. Maintain the originally-proposed 25 foot setback (same as GC), while maintaining inclusion of agriculture adjacency
- Option 3. Require increased 50 foot setbacks only in the commercially-zoned areas (RGC, NC, STC, TC, RC) that border a Rural or Resource comprehensive plan designation (with the intent of having consistent 50 foot setbacks along the outer boundary of the LAMIRD, but not between zoning districts within a LAMIRD) - *staff recommendation*

It should be noted that staff recognize a variety of ongoing issues in relation to setback, buffer and landscaping requirements, and will review these issues as part of the 2010 work plan in order to develop better standards."

The Planning Commission voted for Option 3, except with an increase in the comprehensive plan buffer from 50 feet to 100 feet after discussion about resource – and particularly agricultural resource – protection. The updated version of the Title 20 amendments posted on the county's

website reflects this decision. Selected sections are included as an attachment to this memo. Subsequent to the vote, at the September 24th meeting, the commission requested further discussion of the buffer & setback issue.

Background Information

Setbacks refer to how far a building or other structure must be placed from a road or adjoining property line. Structures may not go within a setback area, but other activities are allowed within these areas, including driveways, storage areas, and drainfields.

Generally speaking, the commercial zones as they exist in the county code require a 25 foot buffer where a residential area is adjoining the commercial property. Properties currently zoned LII or GM now have a 50 foot buffer requirement along zoning boundaries that border a residential zoning district. There are many details and subtleties to this – the code sections relating to rural commercial, industrial, and manufacturing setbacks and buffers are included here as an attachment for reference.

It is also important to keep in mind the procedure for requesting a variance from buffer requirements. Variances are granted by authority of the hearing examiner, with fees governed by the Unified Fee Schedule (variance application fee is currently \$2,650¹). A portion of WCC 20.84 stating the criteria for considering variance requests is included on the last two pages of the attachment to this memo.

As one commissioner mentioned, the WA State Department of Commerce (formerly, Department of Community, Trade, and Economic Development) does give some guidance on this issue of buffers from Resource lands. A study published by the Department in December 2004 looking at the designation of Agricultural lands in Chelan, King, Lewis, and Yakima counties listed the following as one of twenty-two recommended measures to sustain and enhance the agricultural industry:

Require Buffers on Development Properties Adjacent to Agriculture

The impacts of incompatible adjacent land uses could be reduced if buffers are required on development property adjacent to agriculture property. Buffers of 100 feet or more would reduce the potential for pesticide spray to drift onto adjoining properties, and reduce noise levels and odors from agriculture operations. A buffer requirement also would signal the potential developer of the potential impacts of locating next to farmland. Counties would need to change their zoning codes to address this issue, which would then affect future development. The costs of this measure also would be borne by future development, because some land would not be developed and would serve as a buffer. Both Yakima County and Lewis County require setbacks (150-foot and 100-foot, respectively) for developments adjacent to resource lands, including agriculture. (Chelan County Advisory Committee)

Discussion and Decision

Maps are included as attachments that illustrate the affect of the buffers in the Laurel area. They depict a consistent 25 foot buffer where a commercial, manufacturing, or industrial zoning designation abuts a residential zoning designation within a LAMIRD; and different scenario maps following the options outlined below, when a commercial, manufacturing, or industrial zoning designation abuts a Rural, Agricultural, Commercial Forestry, Rural Forestry, or Mineral Resource Area comprehensive plan designation.

¹ \$2,650 = \$2,000 base fee + \$400 office/site inspection + \$100 water review + \$50 fire review + \$50 traffic review + \$50 stormwater review. Can go higher if mitigation is required

In all cases, staff recommends that right-of-way areas be included in the calculation of the comprehensive plan buffer, and to that end proposes the following language be included: “Said buffer area may include public rights-of-way or granted vehicular access easements in a subdivision, binding site plan, or short subdivision.”

Staff is presupposing that commissioners want to continue with the overall direction given in Option 3 voted on September 22nd. Namely, that rural commercial, manufacturing, and industrial zoning designations would have a lesser buffer internally within LAMIRD areas than on their property lines adjacent to the exterior of the LAMIRD boundary. The outstanding issue is whether commissioners wish to stand by their September 22nd decision to increase buffers to 100 feet along boundaries of commercial, industrial, and manufacturing properties that border a Rural or Resource comprehensive plan designation, or whether commissioners wish to reconsider this decision.

Staff have created a number of options to help commissioners articulate the questions at hand. Options 2 through 4 below reflect different ways to relax this requirement. The buffer could be lessened altogether (Option 2). The buffer could be less with a Rural comprehensive plan adjacency than with a Resource Land comprehensive plan adjacency (Options 3 & 4). The buffer requirement could allow an exemption for already created lots (Option 4).

Option 1: Maintain the September 22nd decision to have a 25 foot buffer where a commercial, manufacturing, or industrial zoning designation abuts a residential zoning designation within a LAMIRD, and a 100 foot buffer where a commercial, manufacturing, or industrial zoning designation abuts a Rural, Agriculture, Commercial Forestry, Rural Forestry, or Mineral Resource Area comprehensive plan designation. Title 20 amendment language would stay as proposed (see attached draft code), with the addition of the right-of-way clarification.

Option 2: Require a 25 foot buffer where a commercial, manufacturing, or industrial zoning designation abuts a residential zoning designation within a LAMIRD, and a 50 foot buffer where a commercial, manufacturing, or industrial zoning designation abuts a Rural, Agriculture, Commercial Forestry, Rural Forestry, or Mineral Resource Area comprehensive plan designation. Title 20 amendment language would be modified as follows:

When a parcel situated within this district adjoins a Rural, Agriculture, Commercial Forestry, Rural Forestry, or Mineral Resource Area comprehensive plan designation (as designated on map 8 of chapter 2 of the Whatcom County Comprehensive Plan), setbacks from property lines adjoining these designations shall be increased to 50 feet. Said buffer area may include public rights-of-way or granted vehicular access easements in a subdivision, binding site plan, or short subdivision.

Option 3: Require a 25 foot buffer where a commercial, manufacturing, or industrial zoning designation abuts a residential zoning designation within a LAMIRD, a 50 foot buffer where a commercial, manufacturing, or industrial zoning designation abuts a Rural comprehensive plan designation, and a 100 foot buffer where a commercial, manufacturing, or industrial zoning designation abuts an Agriculture, Commercial Forestry, Rural Forestry, or Mineral Resource Area comprehensive plan designation. Title 20 amendment language would be modified as follows:

Buffers shall be further increased in the following situations:

(1) When a parcel situated within this district adjoins a Rural [comprehensive plan designation \(as designated on map 8 or chapter 2 of the Whatcom County Comprehensive Plan\)](#), setbacks from property lines adjoining this designation shall be increased to 50 feet.

(2) When a parcel situated within this district adjoins an Agriculture, Commercial Forestry, Rural Forestry, or Mineral Resource Area comprehensive plan designation (as designated on map 8 of chapter 2 of the Whatcom County Comprehensive Plan), setbacks from property lines adjoining these designations shall be increased to 100 feet.

(3) Buffer areas required in (1) and (2) may include public rights-of-way or granted vehicular access easements in a subdivision, binding site plan, or short subdivision.

Option 4: This option is a modified option 3, with only newly created lots being subject to the 100 foot Resource buffer. Title 20 amendment language would be modified as follows:

Buffers shall be further increased in the following situations:

(1) When a parcel situated within this district adjoins a Rural [comprehensive plan designation \(as designated on map 8 or chapter 2 of the Whatcom County Comprehensive Plan\)](#), setbacks from property lines adjoining this designation shall be increased to 50 feet.

(2) For a lot of record created as of the effective date of this ordinance, and adjoining an Agriculture, Commercial Forestry, Rural Forestry, or Mineral Resource Area comprehensive plan designation (as designated on map 8 of chapter 2 of the Whatcom County Comprehensive Plan), setbacks from property lines adjoining this designation shall be increased to 50 feet.

(3) For a lot of record created after the effective date of this ordinance, and adjoining an Agriculture, Commercial Forestry, Rural Forestry, or Mineral Resource Area comprehensive plan designation (as designated on map 8 of chapter 2 of the Whatcom County Comprehensive Plan), setbacks from property lines adjoining these designations shall be increased to 100 feet.

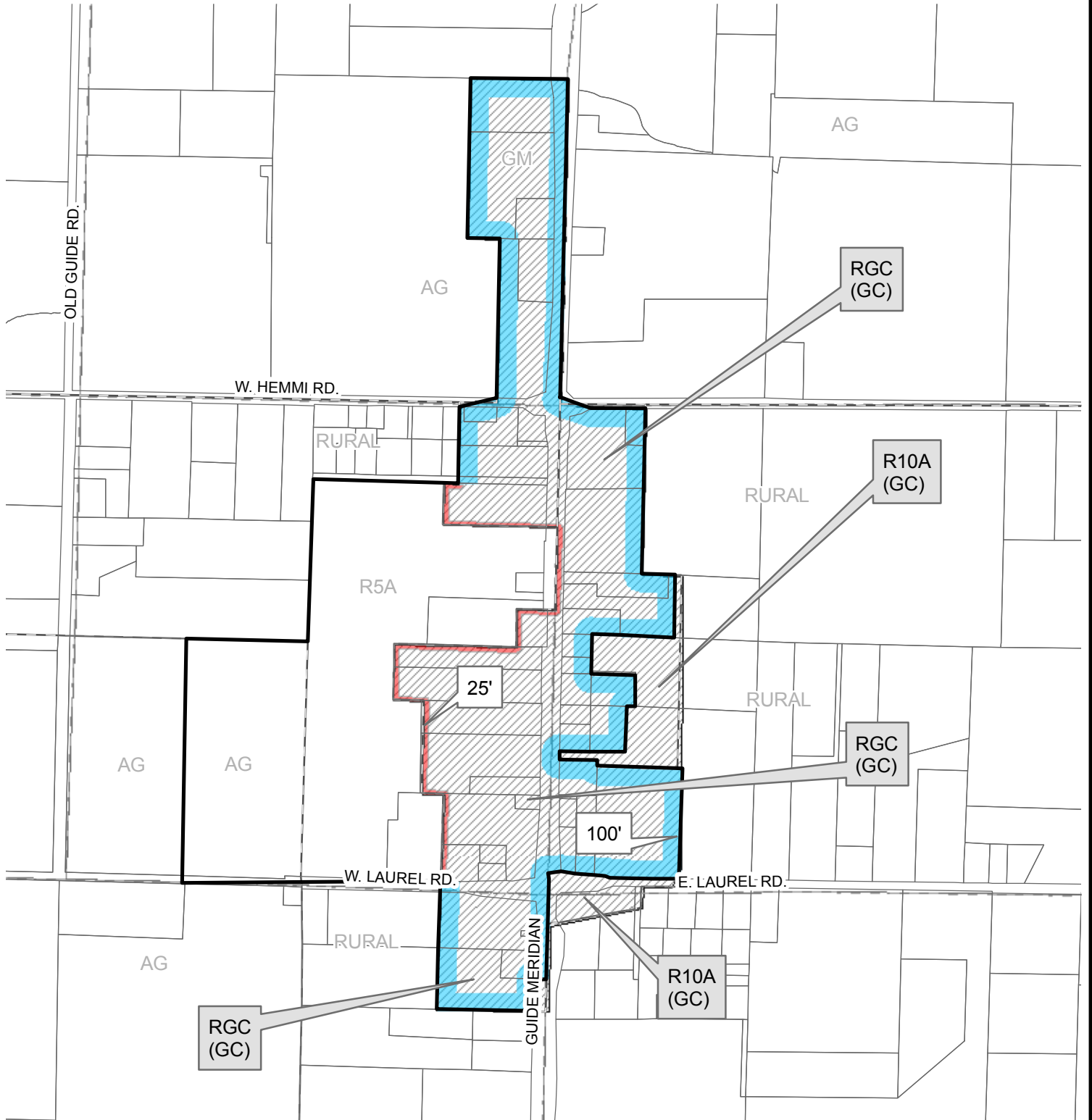
(4) Buffer areas required in (1), (2), and (3) may include public rights-of-way or granted vehicular access easements in a subdivision, binding site plan, or short subdivision.

If you have questions regarding these materials, please call Samya Lutz at ext. 51072.

Attachments:

- Laurel area maps depicting buffer scenarios
- Buffer & setback section from Title 20 draft amendments

Laurel



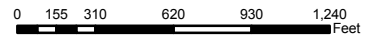
File #: PLN2009-00011
Proposed Rezoning

- Setback Scenario 2**
- 25' Zoning Buffer on Comm/Ind/Mf
 - 100' Comp Plan Buffer
 - Proposed Type I Rural Center
 - Existing Zoning Boundary
 - Proposed Rezone Area

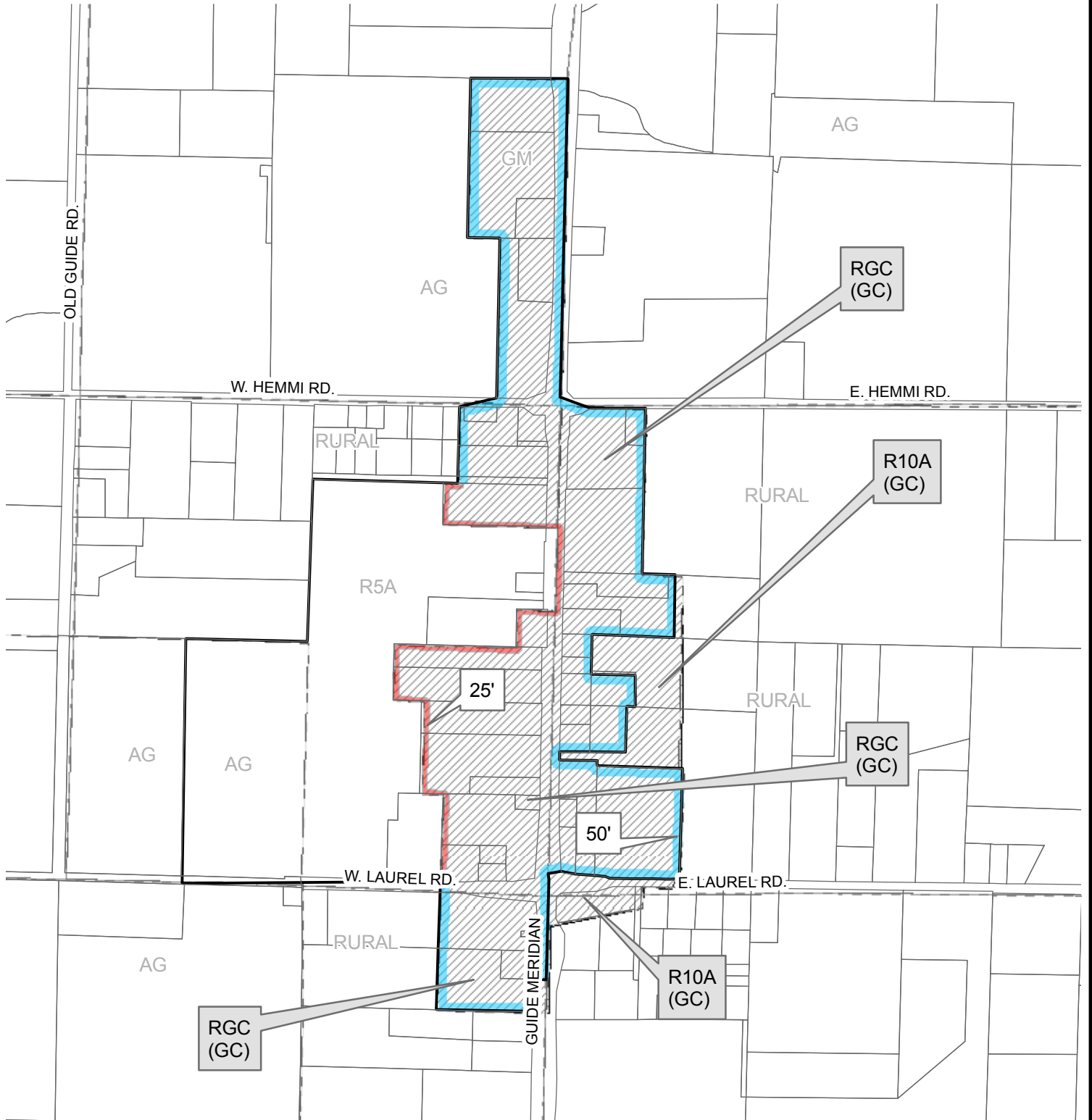
Proposed Zoning - RR10A (not in parentheses)
 Existing Zoning - (GC)

USE OF WHATCOM COUNTY'S GIS DATA IMPLIES THE USER'S AGREEMENT WITH THE FOLLOWING STATEMENT:

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Laurel



File #: PLN2009-00011

Proposed Rezoning

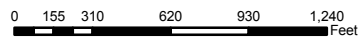
Setback Scenario 1

- 50' Comp Plan Buffer
- 25' Zoning Buffer on Comm/Ind/Mf
- Proposed Type I Rural Center
- Existing Zoning Boundary
- Proposed Rezone Area

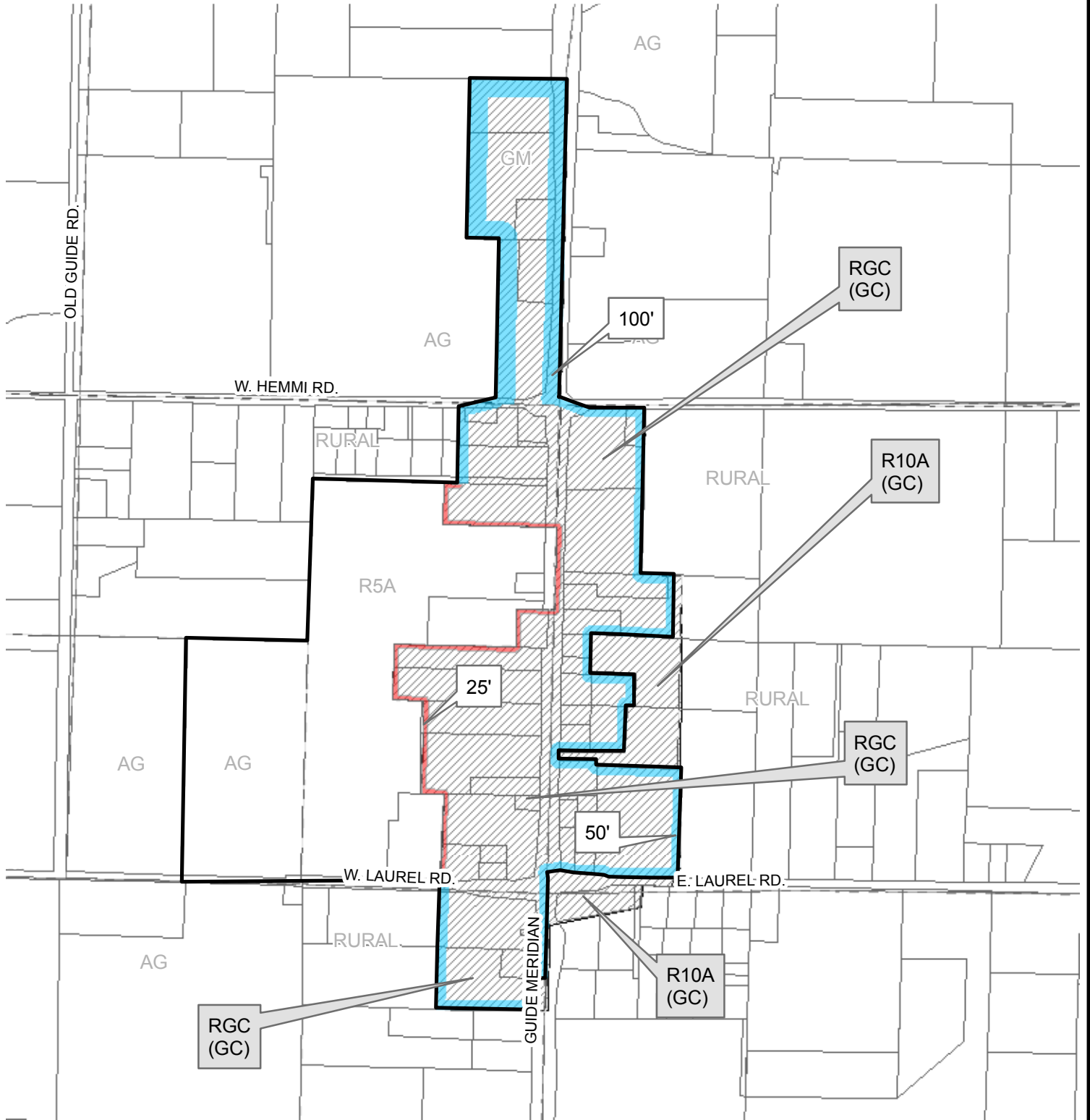
Proposed Zoning - RR10A (not in parentheses)
Existing Zoning - (GC)

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Laurel



File #: PLN2009-00011
Proposed Rezoning

Setback Scenario 3

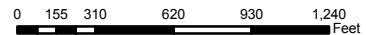
- 100' Comp Plan Buffer
- 50' Comp Plan Buffer
- 25' Zoning Buffer on Comm/Ind/Mf
- Proposed Type I Rural Center

- Existing Zoning Boundary
- Proposed Rezone Area

Proposed Zoning - RR10A (not in parentheses)
 Existing Zoning - (GC)

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20.59 Rural General Commercial (RGC) District

20.59.600 Buffer area.

.601 When a parcel situated within this district adjoins a Rural or Residential Rural District, or county or state roads designated as or proposed for improvements to principal arterial status, setbacks from property lines adjoining these districts shall be increased to 25 feet. Said area shall be landscaped consistent with the requirements of WCC 20.80.345.

.602 When a parcel situated within this district adjoins a Rural, Agriculture, Commercial Forestry, Rural Forestry, or Mineral Resource Area comprehensive plan designation (as designated on map 8 of chapter 2 of the Whatcom County Comprehensive Plan), setbacks from property lines adjoining these designations shall be increased to 100 feet.

20.60 Neighborhood Commercial Center (NC) District

20.60.550 Buffer area.

.551 When parcels situated within this district adjoin an Urban Residential, Urban Residential Medium Density, Residential Rural or Rural District, side and rear yard setbacks shall be increased to 25 feet along the property line(s) adjacent to the named district. Said area shall be landscaped consistent with the requirements of WCC 20.80.345.

.552 When parcels situated within this district are between an interstate highway and a Residential Rural or Rural District, the setback on sides adjoining the Residential Rural or Rural Districts and paralleling the interstate shall be increased to 100 feet. This buffer shall not be altered from existing dense natural vegetation or, where vegetation is lacking, shall be landscaped so as to provide a dense vegetative screen.

.553 When parcels situated within this district adjoin a Rural, Agriculture, Commercial Forestry, Rural Forestry, or Mineral Resource Area comprehensive plan designation (as designated on map 8 of chapter 2 of the Whatcom County Comprehensive Plan), setbacks shall be increased to 100 feet along the property line(s) adjacent to the designation.

COMM/IND SETBACK & BUFFER SECTIONS ONLY

20.61 Small Town Commercial (STC) District**20.61.400 Building setbacks.**

Building setbacks shall be administered pursuant to WCC 20.61.600 and 20.80.200 except as provided below.

- (1) Commercial uses shall be allowed to reduce front yard setback to 10 feet and the side yard setback to zero feet where the site and landscape plans promote pedestrian access to the building.

20.61.600 Buffer area.

.601 Where parcels situated within this district adjoin an Urban Residential, Urban Residential Medium Density, Residential Rural or Rural District, side and rear yard setbacks shall be increased to 25 feet along the property line(s) adjacent to the named districts. Said area shall be landscaped consistent with the requirements of WCC 20.80.345.

.602 When parcels situated within this district adjoin a Rural, Agriculture, Commercial Forestry, Rural Forestry, or Mineral Resource Area comprehensive plan designation (as designated on map 8 of chapter 2 of the Whatcom County Comprehensive Plan), setbacks shall be increased to 100 feet along the property line(s) adjacent to the designation.

20.63 Tourist Commercial (TC) District**20.63.550 Buffer area.**

.551 When parcels situated within this district adjoin an Urban Residential, Urban Residential Medium Density, Rural or Residential Rural District, side and rear yard setbacks shall be increased to 25 feet along the property line(s) adjacent to the named districts. Said area shall be landscaped consistent with the requirements of WCC 20.80.345.

.552 When parcels situated within this district adjoin a Rural, Agriculture, Commercial Forestry, Rural Forestry, or Mineral Resource Area comprehensive plan designation (as designated on map 8 of chapter 2 of the Whatcom County Comprehensive Plan), setbacks shall be increased to 100 feet along the property line(s) adjacent to the designation.

COMM/IND SETBACK & BUFFER SECTIONS ONLY

20.64 Resort Commercial (RC) District**20.64.350 Building setbacks.**

Building setbacks shall be administered pursuant to WCC 20.64.550 and 20.80.200 except as provided below.

.351 Commercial uses shall be allowed to reduce the front yard setback to 15 feet and the side yard setback to zero feet where the site and landscape plans promote pedestrian access to the building.

.352 Any single-family development, for internal lots, may use a side yard setback of zero feet where the lot line setback on the opposite side yard is 10 feet; however, side yard setbacks adjacent to parcels not being developed under this exception shall be those provided in WCC 20.80.200.

.353 An additional five feet shall be added to each side yard and rear yard for each 10 feet of building height, or fraction thereof, in excess of 15 feet.

20.64.550 Buffer area.

.551 Except for single-family residences, when a parcel situated within this district adjoins an Urban Residential, Urban Residential Medium Density, Residential Rural or Rural District, side and rear yard setbacks shall be increased to 25 feet along the property line(s) adjacent to the named district. Said area shall be landscaped consistent with the requirements of WCC 20.80.345.

.552 When parcels situated within this district adjoin a Rural, Agriculture, Commercial Forestry, Rural Forestry, or Mineral Resource Area comprehensive plan designation (as designated on map 8 of chapter 2 of the Whatcom County Comprehensive Plan), setbacks shall be increased to 100 feet along the property line(s) adjacent to the designation.

20.67 General Manufacturing (GM) District**20.67.550 Buffer area.**

.551 When a parcel situated within this district adjoins an Urban Residential, Urban Residential Medium Density, Rural or Residential Rural District, or county or state roads designated as or proposed for improvements to principal arterial status, setbacks shall be increased to ~~50-25~~ feet. ~~A minimum of 25 feet~~Said area shall be landscaped consistent with the requirements of WCC 20.80.345.

.552 When parcels situated within this district adjoin a Rural, Agriculture, Commercial Forestry, Rural Forestry, or Mineral Resource Area comprehensive plan designation (as designated on map 8 of chapter 2 of the Whatcom County Comprehensive Plan), setbacks shall be increased to 100 feet along the property line(s) adjacent to the designation.

COMM/IND SETBACK & BUFFER SECTIONS ONLY

.553~~2~~ If any part of ~~said the~~ buffer area is separated from, or sold to any contiguous or adjacent owner, lessee or user, the parcel so separated or sold shall be used only as a buffer area in accordance with the above requirements.

20.69 Rural Industrial - Manufacturing (RIM) District**20.69.550 Buffer area.**

.551 When a parcel situated within this district adjoins a Rural or Residential Rural District, or county or state roads designated as or proposed for improvements to principal arterial status, setbacks of adjoining area shall be increased to 25 feet. Said area shall be landscaped consistent with the requirements of WCC 20.80.345.

.552 When parcels situated within this district adjoin a Rural, Agriculture, Commercial Forestry, Rural Forestry, or Mineral Resource Area comprehensive plan designation (as designated on map 8 of chapter 2 of the Whatcom County Comprehensive Plan), setbacks shall be increased to 100 feet along the property line(s) adjacent to the designation.

.553 If any part of said buffer area is separated from, or sold to any contiguous or adjacent owner, lessee or user, the parcel so separated or sold shall be used only as a buffer area in accordance with the above requirements.

20.80 Supplementary Requirements**20.80.210 Minimum setbacks.**

(1) All structures, including accessory structures, shall be placed on their lots in compliance with the requirements of the Setback Table (20.80.210(5)), except as may otherwise be provided in this title.

(2) Waterfront Lots. Waterfront lots shall comply with the building setback requirements set forth in the Whatcom County Shoreline Management Program. (See WCC 20.80.220(2))

(3) Vision Clearance. Notwithstanding any other setback requirements of this title, and unless specifically provided otherwise, a clear vision area shall be maintained on the corners of all property at the intersection of two streets, a street and an alley, or a street and a railroad.

(a) A clear vision area shall consist of a triangular area, two sides of which are lot lines measured from the corner intersection of the street lot lines for a distance specified in subsection (c)(3) of this section (where the lot has rounded corners, the distance shall be measured from the intersection of those

COMM/IND SETBACK & BUFFER SECTIONS ONLY

lot lines extended), and the third side of which is a line across the corner of the lot joining the nonintersection ends of the other two sides.

(b) A clear vision area shall contain no planting, fence, wall, obstruction, or temporary or permanent obstruction exceeding two and one-half feet in height, measured from the top of the curb or, where no curb exists, from the established street center line grade; except that trees exceeding this height may be located in this area; provided all branches and foliage are removed to a height of 10 feet above the grade.

(c) The following measurements shall establish clear vision areas:

(i) In a residential zone, the minimum distance shall be 30 feet, or at intersections including an alley, 10 feet;

(ii) In all other zones, the minimum distance shall be 15 feet, or at intersections including an alley, 10 feet, except when the angle of intersection between a street other than an alley is less than 30 degrees the distance shall be 25 feet;

(iii) Structures including buildings may be constructed within the clear vision area; provided, that any portion of the structure within the clear vision area is more than eight feet above the top of the curb or street center line grade and is supported by not more than two columns each of which is no more than eight inches in diameter.

(4) Properties which are generally located on the Guide Meridian between Horton and Kellogg roads, and specifically identified in the Guide Meridian Improvement Plan, shall be subject to the provisions of said plan. The provisions of said plan shall supersede this chapter where there is inconsistency.

(5) Setbacks. For the purposes of this chapter, the road classification used to determine setback requirements shall be as set forth in WCC 20.80.210. In the event a particular road is not listed in the WCC 20.80.210, 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) Setbacks 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.

COMM/IND SETBACK & BUFFER SECTIONS ONLY

(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.

(b) Setbacks Table

Commercial Setbacks

General Commercial (GC)							
<i>Road Type</i>						<i>Other</i>	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
30' ¹	30'	25'	25'	25'	20'	0'	10'
1. Setbacks for those parcels situated adjacent to Urban Residential, Rural Cluster Development and Rural Zone Districts shall be administered pursuant to WCC 20.62.550 (Buffer area).							
<u>Rural General Commercial (RGC)</u>							
<i>Road Type</i>						<i>Other</i>	
<u>Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials</u>	<u>Collector Arterials or Major Collectors</u>	<u>Minor Collectors</u>	<u>Local Access Streets</u>	<u>Neighborhood Collector</u>	<u>Minor Access Streets</u>	<u>Side Yard</u>	<u>Rear Yard</u>
<u>30' ¹</u>	<u>30'</u>	<u>25'</u>	<u>25'</u>	<u>25'</u>	<u>20'</u>	<u>0'</u>	<u>10'</u>
<p><u>1. Setbacks for those parcels situated adjacent to Urban Residential, Rural Cluster Development, and Rural Zone Districts, and to Rural and Resource comprehensive plan designations, shall be administered pursuant to WCC 20.59.600 (Buffer area).</u></p> <p><u>2. Side and rear yard setbacks shall be 10 feet from vacant, adjacent, commercially zoned properties.</u></p>							
Tourist Commercial (TC)							
<i>Road Type</i>						<i>Other</i>	

COMM/IND SETBACK & BUFFER SECTIONS ONLY

Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
30' ¹	30'	25'	25'	25'	20'	0'	10'
<i>Water Resource Protection Overlay</i>							
30'	30'	20'	20'	20'	20'	0'	5'
<p>1. Setbacks for those parcels situated adjacent to Urban Residential, Urban Residential Medium Density, Residential Rural and Rural Zone Districts, <u>and to Rural and Resource comprehensive plan designations</u>, shall be administered pursuant to WCC 20.63.550 (Buffer area).</p> <p>2. Setback requirements for recreational vehicle parks shall be 30 feet for side and rear yards.</p> <p>3. Front yard setback requirements for service islands of service stations shall be 25 feet to the center line of the driveway of the closest service island.</p>							
Small Town Commercial (STC)							
<i>Road Type</i>						<i>Other</i>	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
30' ¹	30'	25'	25'	25'	20'	0'	10'
<p>1. Commercial uses shall be allowed to reduce front yard setback to 10 feet and the side yard setback to zero feet where the site and landscape plans promote pedestrian access to the building.</p> <p><u>2. Side and rear yard setbacks shall be 10 feet from vacant, adjacent, commercially zoned properties.</u></p> <p><u>3. Setbacks for those parcels situated adjacent to Urban Residential, Urban Residential Medium Density, Residential Rural, and Rural Zone Districts, and to Rural and Resource comprehensive plan designations, shall be administered pursuant to WCC 20.61.600 (Buffer area).</u></p>							
Resort Commercial (RC)							
<i>Road Type</i>						<i>Other</i>	

COMM/IND SETBACK & BUFFER SECTIONS ONLY

Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
30'	30'	25'	25'	25'	20'	5' ²	5' ²

1. Setbacks for those parcels situated adjacent to Urban Residential, Residential Rural and Rural Zone Districts, and to Rural and Resource comprehensive plan designations, shall be administered pursuant to WCC 20.64.550 (Buffer area).

2. Setback requirements for multifamily housing, including all condominiums except time share condominiums and mobile home parks, shall be 20 feet for side and rear yards.

3. Setback requirements for recreational vehicle parks, and resort-oriented hotels and motels including time share condominiums shall be 45 feet for front yard, and 20 feet for side and rear yards.

4. Setback requirements for nonresort-oriented hotels and motels and nonhabitation commercial development shall be zero feet for side yards and 10 feet for rear yards.

Neighborhood Commercial (NC)

<i>Road Type</i>						<i>Other</i>	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
25'	25'	25'	25'	25'	20'	0'	10'

Water Resource Protection Overlay

30'	30'	20'	20'	20'	20'	0'	10'
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1. Neighborhood Commercial District. Setbacks for those parcels situated adjacent to Urban Residential, Residential Rural and Rural Zone Districts, and to Rural and Resource comprehensive plan designations, shall be administered pursuant to WCC 20.60.550 (Buffer area).

¹ - When located adjacent to I-5 these setbacks may be reduced to 25' subject to the screening requirements under WCC 20.80.300.

² - Roof overhangs or other architectural features shall not project further than 18 inches into the side or rear yard setbacks. Such overhangs may extend six feet into the front yard setback; however, in no case will they extend more than one-half the depth of the front yard setback.

COMM/IND SETBACK & BUFFER SECTIONS ONLY

Industrial Setbacks

Heavy Impact Industrial (HII)							
Road Type						Other	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
100'	100'	100'	100'	100'	30'	30'	30'
<p>1. All setbacks shall be increased by one foot for each foot of building height, excluding tanks and similar structures, which exceeds 50 feet.</p> <p>2. The building setbacks of WCC 20.80.210 shall not apply to utility or security structures such as poles, meters, fences, guard structures and the like, nor to structures relating to shipment on railroad rights-of-way; provided, that no traffic hazards are created. For nonindustrial buildings, the zoning administrator may reduce or eliminate side and rear yard setbacks from side and rear property lines that are adjoining an industrial district provided that all of the following provisions are met:</p> <ul style="list-style-type: none"> (i) Screening will be provided to protect adjacent uses from unsightliness or visual distraction; (ii) A site plan has been submitted that shows that all structures and improvements including roof overhangs will not cross property boundaries, and a stormwater management plan has been provided that shows that runoff will be diverted to on-site drainage facilities; (iii) A reduction in setbacks will not reduce solar access on adjacent properties or if a setback reduction will result in reduced solar access, all parties having an ownership interest in the property adjacent to the side or rear yards to be reduced stipulate in writing, on forms provided by the zoning administrator, to the reductions. The zoning administrator may require a title report to establish the ownership interests in the adjacent property; (iv) Adjoining properties will be shielded from light sources; (v) The use and storage of toxic or hazardous materials or processes will not be located within what would otherwise be the setback area unless adequate facilities to contain accidental spills on-site consistent with state regulations are provided; (vi) The reduced setbacks will not interfere with existing sewer, water and other easements; and (vii) Reduced setbacks will not result in the creation of a traffic hazard nor will the reduced setback create a circumstance that does not comply with WCC 20.80.210(3), Vision Clearance. <p>3. Setbacks for parcels adjoining a nonindustrial district(s) shall be administered pursuant to WCC 20.68.550 (Buffer Area) and Policy 1.05 of the Heavy Impact Industrial designation of the Cherry Point-Ferndale Subarea Plan.</p>							

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4. The setback requirements of the Heavy Impact Industrial District shall apply to the storing and handling of hazardous materials; provided, that if federal and/or state regulations require different setbacks, the greater setback (county, federal, or state) shall be used.

5. The zoning administrator may reduce setbacks for nonindustrial buildings to those of Light Impact Industrial if the reduced setbacks would not interfere with existing sewer, water and other easements. A greater reduction in setback requires approval under subsection (3)(d) of this section.

Light Impact Industrial (LII)

<i>Road Type</i>						<i>Other</i>	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
30'	30'	30'	30'	30'	20'	10'	10'

1. All setbacks shall be increased by one foot for each foot of building height which exceeds 35 feet.

2. The building setbacks of WCC 20.80.210 shall not apply to utility or security structures such as poles, meters, fences, guard structures and the like. In addition, the zoning administrator may reduce side and rear yard setbacks for other structures as provided by subsection (1)(d) of this section (4) of the Light Impact Industrial zone.

3. Setbacks for parcels adjoining a nonindustrial district(s) shall be administered pursuant to WCC 20.66.550 (Buffer Area).

4. The zoning administrator may reduce or eliminate side and rear yard setbacks from side and rear property lines that are adjoining an industrial district; provided, that the administrator finds that all of the following provisions are met:

(i) Screening will be provided to protect adjacent uses from unsightliness or visual distraction;

(ii) A site plan has been submitted that shows that all structures and improvements including roof overhangs will not cross property boundaries, and a stormwater management plan has been provided that shows that runoff will be diverted to on-site drainage facilities;

(iii) A reduction in setbacks will not reduce solar access on adjacent properties or if a setback reduction will result in reduced solar access, all parties having an ownership interest in the property adjacent to the side or rear yards to be reduced stipulate in writing, on forms provided by the zoning administrator, to the reductions. The zoning administrator may require a title report to establish the ownership interests in the adjacent property;

(iv) Adjoining properties will be shielded from light sources;

(v) The use and storage of toxic or hazardous materials or processes will not be located within what would otherwise be the setback area unless adequate facilities to contain

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accidental spills on-site consistent with state regulations are provided;
 (vi) The reduced setbacks will not interfere with existing sewer, water and other easements; and
 (vii) Reduced setbacks will not result in the creation of a traffic hazard nor will the reduced setback create a circumstance that does not comply with WCC 20.80.210(3), Vision Clearance.

General Manufacturing (GM)

<i>Road Type</i>						<i>Other</i>	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
30'	30'	30'	30'	30'	20'	10'	10'

1. All setbacks shall be increased by one foot for each foot of building height which exceeds 35 feet.
2. The building setbacks of WCC 20.80.210 shall not apply to utility or security structures such as poles, meters, fences, guard structures and the like.
3. Setbacks for parcels adjoining a nonindustrial district(s) shall be administered pursuant to WCC 20.67.550 (Buffer Area).
4. The provisions of subsection (1)(d) of this section may be applied to side and rear yard setbacks in the General Manufacturing District. The zoning administrator may reduce or eliminate side and rear yard setbacks from side and rear property lines that are adjoining an industrial district; provided, that the administrator finds that all of the following provisions are met:
 - (i) Screening will be provided to protect adjacent uses from unsightliness or visual distraction;
 - (ii) A site plan has been submitted that shows that all structures and improvements including roof overhangs will not cross property boundaries, and a stormwater management plan has been provided that shows that runoff will be diverted to on-site drainage facilities;
 - (iii) A reduction in setbacks will not reduce solar access on adjacent properties or if a setback reduction will result in reduced solar access, all parties having an ownership interest in the property adjacent to the side or rear yards to be reduced stipulate in writing, on forms provided by the zoning administrator, to the reductions. The zoning administrator may require a title report to establish the ownership interests in the adjacent property;
 - (iv) Adjoining properties will be shielded from light sources;
 - (v) The use and storage of toxic or hazardous materials or processes will not be located within what would otherwise be the setback area unless adequate facilities to contain accidental spills on-site consistent with state regulations are provided;
 - (vi) The reduced setbacks will not interfere with existing sewer, water and other easements; and
 - (vii) Reduced setbacks will not result in the creation of a traffic hazard nor will the

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reduced setback create a circumstance that does not comply with WCC 20.80.210(3), Vision Clearance.

5. The zoning administrator may reduce setbacks for nonindustrial buildings to those of Light Impact Industrial if the reduced setbacks would not interfere with existing sewer, water and other easements. A greater reduction in setback requires approval under subsection (2)(d) of this section.

Gateway Industrial (GI)

<i>Road Type</i>						<i>Other</i>	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
25'	25'	25'	25'	25'	25'	10'	10'

1. Maximum building height shall not exceed 35 feet; except, that an additional foot in height is allowed for each one-foot increase in setback in the yard adjoining the interstate highway up to 45 feet in the West Bakerview/I-5 Interchange area of the Urban Fringe Subarea and up to 75 feet in the Birch Bay-Lynden Road area of the Blaine-Birch Bay Subarea. Height of structures, where applicable, shall also conform to the general requirements of WCC 20.80.675.

Airport Operations (AO)

<i>Road Type</i>						<i>Other</i>	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
30'	30'	30'	30'	30'	20'	10'	10'

1. Setbacks for parcels adjoining a nonindustrial district shall be administered pursuant to WCC 20.70.550 (Buffer Area).

2. The zoning administrator may reduce or eliminate side and rear yard setbacks from side and rear property lines that are adjoining an industrial district; provided, that the administrator finds that all of the following provisions are met:

- (i) Screening will be provided to protect adjacent uses from unsightliness or visual distraction;
- (ii) A site plan has been submitted that shows that all structures and improvements including roof overhangs will not cross property boundaries, and a stormwater management

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plan has been provided that shows that runoff will be diverted to on-site drainage facilities;

(iii) A reduction in setbacks will not reduce solar access on adjacent properties or if a setback reduction will result in reduced solar access, all parties having an ownership interest in the property adjacent to the side or rear yards to be reduced stipulate in writing, on forms provided by the zoning administrator, to the reductions. The zoning administrator may require a title report to establish the ownership interests in the adjacent property;

(iv) Adjoining properties will be shielded from light sources;

(v) The use and storage of toxic or hazardous materials or processes will not be located within what would otherwise be the setback area unless adequate facilities to contain accidental spills on-site consistent with state regulations are provided;

(vi) The reduced setbacks will not interfere with existing sewer, water and other easements; and

(vii) Reduced setbacks will not result in the creation of a traffic hazard nor will the reduced setback create a circumstance that does not comply with WCC 20.80.210(3), Vision Clearance.

<u>Rural Industrial – Manufacturing (RIM)</u>							
<i>Road Type</i>						<i>Other</i>	
<u>Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials</u>	<u>Collector Arterials or Major Collectors</u>	<u>Minor Collectors</u>	<u>Local Access Streets</u>	<u>Neighborhood Collector</u>	<u>Minor Access Streets</u>	<u>Side Yard</u>	<u>Rear Yard</u>
<u>30'</u>	<u>30'</u>	<u>30'</u>	<u>30'</u>	<u>30'</u>	<u>20'</u>	<u>10'</u>	<u>10'</u>
<u>1. Setbacks for parcels adjoining a nonindustrial district(s) shall be administered pursuant to WCC 20.67.550 (Buffer Area).</u>							

Resource Lands Setbacks

<u>Agriculture (AG)</u>							
<i>Road Type</i>						<i>Other</i>	
<u>Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials</u>	<u>Collector Arterials or Major Collectors</u>	<u>Minor Collectors</u>	<u>Local Access Streets</u>	<u>Neighborhood Collector</u>	<u>Minor Access Streets</u>	<u>Side Yard</u>	<u>Rear Yard</u>
<u>50'</u>	<u>50'</u>	<u>50'</u>	<u>50'</u>	<u>50'</u>	<u>50'</u>	<u>20'</u>	<u>20'</u>
<u>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</u>							

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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.

Side Yards: Minimum side yard setbacks shall be five feet.

Rear Yards: Minimum rear yard setbacks shall be five feet.

Commercial Forestry (CF)

<i>Road Type</i>						<i>Other</i>	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
45'	35'	25'	25'	25'	20'	100'	100'

Water Resource Protection Overlay

30'	30'	20'	20'	20'	20'	100'	100'
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1. Parcels utilized solely for community centers shall observe the following minimum setback requirements: front yard: 50 feet; side yard: 25 feet; rear yard: 25 feet.

Rural Forestry (RF)

<i>Road Type</i>						<i>Other</i>	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
45'	35'	25'	25'	25'	20'	20'	20'

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<i>Water Resource Protection Overlay</i>							
30'	30'	20'	20'	20'	20'	20'	20'
<p>1. Setbacks shall be increased to 100 feet for those parcels in the Rural Forestry zone situated adjacent to the Commercial Forestry zone, except that such parcels whose owners have filed an agreement with the county auditor as specified in WCC 20.42.651 shall be subject to the standard setback of the Rural Forestry Zone. Forest industry buildings, stationary equipment or storage areas excluding scaling stations and watchman's stations shall not be located within 100 feet of any other zone district.</p> <p>2. Parcels utilized solely for community centers shall observe the following minimum setback requirements: front yard: 50 feet; side yard: 25 feet; rear yard: 25 feet.</p> <p>3. When a permitted residence (WCC 20.42.056), adjoins an existing parcel of 20 acres or more in size or a parcel that is being cultivated for commercial forestry production, a minimum building setback of 100 feet shall be established from the common property line.</p> <p>4. Lummi Island Scenic estates setbacks shall be administered under the Rural Residential Island setback standards.</p>							

Rural Residential Setbacks

Rural Residential (RR)							
<i>Road Type</i>						<i>Other</i>	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
45'	35'	25'	25'	25'	20'	5' ^{1,2}	5' ¹
<i>Water Resource Protection Overlay</i>							
30'	30'	20'	20'	20'	20'	5'	5'
<p>1. Setbacks shall be increased to 100 feet for those parcels situated adjacent to Forestry Zone District, except that such parcels whose owners have filed an agreement with the county auditor as specified in WCC 20.32.651 shall be subject to the standard setback in WCC 20.80.210.</p>							
Rural Residential Island (RRI)							
<i>Road Type</i>						<i>Other</i>	

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Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
		25'	25'	25'	20'	5'	5'
1. Residential Rural-Island District. Setbacks shall be increased to 100 feet for those parcels situated adjacent to Forestry Zone Districts, except that such parcels whose owners have filed an agreement with the county auditor as specified in WCC 20.34.651 shall be subject to the standard setback in WCC 20.80.210.							
Point Roberts Transitional Zone (TZ)							
<i>Road Type</i>						<i>Other</i>	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
45'	35'	25'	25'	25'	20'	5' ¹	5' ¹
No additional standards							

¹ – Roof overhangs or other additional features shall not project further than 18 inches into the side or rear yard setbacks. Such overhangs may extend six feet into the front yard setback; however, in no case will they extend more than one-half the depth of the front yard setback.

² – Zero lot line side yard setbacks may be approved by the zoning administrator for single-family attached dwelling units along the common property line where the dwellings share a common wall.

Rural Zoning Setbacks

Rural (R)							
<i>Road Type</i>						<i>Other</i>	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard

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45'	45'	35'	25'	25'	20'	5' ¹	5' ¹
<i>Water Resource Protection Overlay</i>							
30'	30'	20'	20'	20'	20'	5'	5'
<p>1. Setbacks shall be increased to 100 feet for those parcels situated adjacent to the Commercial Forestry Zone District, except that such parcels whose owners have filed an agreement with the county auditor as specified in WCC 20.36.651 shall be subject to the standard setback in WCC 20.80.210.</p> <p>2. For lots created after 2001 through the cluster provisions, or lots created through the APO provisions which will be used for human habitation shall be set back a minimum of 100 feet from the property line of any parcel or portion thereof which is designated or used for agricultural purposes. No structures shall be constructed within 30 feet of exterior, side and rear property lines, and no structure shall be constructed within 30 feet of an agricultural use. Subject to any further requirements within WCC 20.38 Agriculture Protection Overlay.</p>							

¹ – Roof overhangs or other architectural features shall not project further than 18 inches into the side or rear yard setbacks. Such overhangs may extend six feet into the front yard setback; however, in no case will they extend more than one-half the depth of the front yard setback.

Urban Residential Setbacks

Urban Residential Mixed Use (URMX)							
<i>Road Type</i>						<i>Other</i>	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
45'	35'	25'	10'	10'	10'	5' ¹	5' ¹
<i>Water Resource Protection Overlay</i>							
30'	30'	20'	20'	20'	20'	5'	5'
<p>1. No specific setback requirements shall apply to a planned concept submitted for technical committee review. This provision could be used, for example, to allow zero-lot-line development.</p>							
Urban Residential Medium (URM)							
<i>Road Type</i>						<i>Other</i>	

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Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
45'	35'	25'	25'	25'	20'	5' ¹	5' ¹
<i>Water Resource Protection Overlay</i>							
30'	30'	20'	20'	20'	20'	5'	5'
1. Setback requirements for mobile home parks shall be 20 feet from the perimeter of the park for side and rear yards and shall be screened from neighboring uses in accordance with WCC 20.80.345.							
Urban Residential (UR)							
<i>Road Type</i>						<i>Other</i>	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
45'	35'	25'	25'	25'	20'	5' ^{1, 2}	5' ¹
<i>Water Resource Protection Overlay</i>							
30'	30'	20'	20'	20'	20'	5'	5'
1. Setbacks shall be increased to 100 feet for those parcels situated adjacent to Forestry Zone District, except that such parcels which are less than 20,000 square feet in a subdivision approved prior to January 1, 1987, and whose owners have filed an agreement with the county auditor as specified in WCC 20.20.651 shall be subject to the standard setback in WCC 20.80.210							

¹ – Roof overhangs or other architectural features shall not project further than 18 inches into the side or rear yard setbacks. Such overhangs may extend six feet into the front yard setback; in no case will the extend more than one-half the depth of the front yard setback.

² – Zero lot line side yard setbacks may be approved by the zoning administrator for single-family attached dwelling units along the common property line where the dwellings share a common wall.

Other Zoning Setbacks

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Recreation Open Space (ROS)							
<i>Road Type</i>						<i>Other</i>	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
100'	100'	50'	50'	50'	50'	50'	50'
1. Parcels utilized solely for community centers shall observe the following minimum setback requirements: front yard: 50 feet; side yard: 25 feet; rear yard: 25 feet. 2. Shoreline setbacks shall be administered consistent with the Shoreline Management Program of Whatcom County; provided, that a 25-foot setback is maintained from the ordinary high water mark of all water bodies and a 50-foot setback is maintained from the ordinary high water mark of fish spawn streams.							
Water Resource Protection Overlay (WRPO)							
<i>Road Type</i>						<i>Other</i>	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
30'	30'	20'	20'	20'	20'	See underlying Zoning ^{1, 2}	See underlying zoning _{1, 2}
No additional standards							

¹ – Roof overhangs or other architectural features shall not project further than 18 inches into the side or rear yard setbacks. Such overhangs may extend six feet into the front yard setback; however, in no case will they extend more than one-half the depth of the front yard setback.

² – Refer to additional provisions of WCC 20.64.250 or 20.65.400.

20.80.220 Use of setback areas.

All setback measurements are minimum requirements. All front yard and rear yard setback areas shall be open from side-to-side of the lot except as otherwise provided by the following:

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(1) Front Yards.

(a) Uncovered patios, driveways, walkways, vegetation, pools, recreation equipment, and fences and walls up to four feet in height, and propane tanks with fuel capacities up to 500 gallons may be placed in this front yard setback area subject to the limitations of WCC 20.80.210(3) regarding vision clearance; and provided, that the following applies:

(i) The location of propane tanks with fuel capacities up to 500 gallons is restricted to the rear 50 percent of front yard setbacks. All such propane tanks shall be:

(A) Inspected and approved by the Whatcom County fire marshal for compliance with Article 82 of the most currently adopted Uniform Fire Code and, when required by the fire marshal, isolated from other uses by a noncombustible wall or fence; and

(B) Encourage screening by a fence or with shrub vegetation planted to a minimum height of six inches above the top surface of the propane tank; and

(C) Located so as not to interfere or obstruct sight distances for vehicular traffic.

(b) Signs approved for use in a front yard area shall be subject to the limitations of WCC 20.80.410 and/or WCC 20.80.215 as applicable.

(c) Fences, walls or vegetative hedges greater than four feet in height up to a maximum of six feet in height may be located within the front yard setback area subject to the limitations of WCC 20.80.210(3) regarding vision clearance and provided both of the following apply:

(i) The additional height does not obstruct or impair visual corridors of surrounding properties and sight distances of vehicular traffic;

(ii) The additional height is determined by the administrator to be necessary in order to provide security and/or privacy to the particular use activity by reason of one or more of the following:

(A) The property's immediate location next to public access areas; or

(B) A determination by the administrator that the property and/or its facilities and amenities are both attractive to the general public, and intended for the exclusive use of its residents and/or patrons; or

(C) A determination by the administrator that the additional height is needed to protect the public health, safety and general welfare.

(2) Rear Yards. Uncovered patios, driveways, walkways, vegetation, pools, recreation equipment, open parking spaces, fences and walls up to seven feet in height, and structures housing accessory uses in Urban Residential, Residential Rural, Rural and Agricultural Zone Districts may be placed in the rear yard; provided, that an open space of at least eight feet is maintained between any structure housing such accessory use and any other building on that lot.

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(3) Side yards must be kept open; provided, that uncovered patios, driveways, walkways, vegetation, pools, parking areas, recreational equipment, and fences and walls up to seven feet in height may be placed in the side yard.

20.80.230 Measurement of setbacks.

(1) Front Yard. The requisite minimum front yard setback line shall be measured from the edge of the abutting road right-of-way (front property line). For corner lots, the appropriate abutting road right-of-way shall be determined as provided in subsection (3) of this section. The property owner shall bear the responsibility for correctly locating the edge of the abutting road right-of-way from which the measurement is to be taken.

(2) Shoreline Areas. In situations where the shoreline setback(s) imposed by the Shoreline Management Program exceed the standard rear and/or side yard setbacks imposed by this chapter, the front yard setback(s) shall apply to the waterfront side(s) of the lot or tract and the rear yard setback shall apply to the street side of the lot or tract; provided, however, the zoning administrator may waive the setback reversal requirement of this section upon request of the property owner if he finds that the public interest will not be harmed; provided further, that the minimum setback on the street side of parcels abutting collector and arterial roadways shall be 20 feet.

(3) Corner Lots. For corner lots or parcels bounding two or more roads the front yard shall be that yard which abuts a collector or arterial road. In the case of two or more roads being designated collectors or arterials, the front yard shall abut the road with the higher classification. If neither of the roads are designated collectors or arterials or they have equal classifications, the owner/builder shall have the option of selecting the front yard. The zoning administrator may override this decision in special circumstances involving public safety. Yards on the other flanking streets may be considered side yards except that for collectors or arterials the minimum setback shall be no less than one half of the normally required road setback.

20.80.240 Reserved.**20.80.250 Special setback provisions by district.****20.80.251 Residential districts.**

(1) Urban Residential District. Setbacks shall be increased to 100 feet for those parcels situated adjacent to Forestry Zone District, except that such parcels which are less than 20,000 square feet in a subdivision approved prior to January 1, 1987, and whose owners have filed an agreement with the county auditor as specified in WCC 20.20.651 shall be subject to the standard setback in WCC 20.80.210.

(2) Residential Rural District. Setbacks shall be increased to 100 feet for those parcels situated adjacent to Forestry Zone District, except that such parcels whose owners have filed an agreement with the county auditor as specified in WCC 20.32.651 shall be subject to the standard setback in WCC 20.80.210.

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(3) Urban Residential Medium Density District. Setback requirements for mobile home parks shall be 20 feet from the perimeter of the park for side and rear yards and shall be screened from neighboring uses in accordance with WCC 20.80.345.

(4) Residential Rural-Island District. Setbacks shall be increased to 100 feet for those parcels situated adjacent to Forestry Zone Districts, except that such parcels whose owners have filed an agreement with the county auditor as specified in WCC 20.34.651 shall be subject to the standard setback in WCC 20.80.210.

20.80.252 Rural District.

(1) Rural District Setbacks. Setbacks shall be increased to 100 feet for those parcels situated adjacent to the Commercial Forestry Zone District, except that such parcels whose owners have filed an agreement with the county auditor as specified in WCC 20.36.651 shall be subject to the standard setback in WCC 20.80.210.

20.80.253 Commercial districts.

(1) Neighborhood Commercial District. Setbacks for those parcels situated adjacent to Urban Residential, Residential Rural and Rural Zone Districts shall be administered pursuant to WCC 20.60.550 (Buffer area).

(2) General Commercial District. Setbacks for those parcels situated adjacent to Urban Residential, Rural Cluster Development and Rural Zone Districts shall be administered pursuant to WCC 20.62.550 (Buffer area).

(3) Tourist Commercial District.

(a) Setbacks for those parcels situated adjacent to Urban Residential, Urban Residential Medium Density, Residential Rural and Rural Zone Districts shall be administered pursuant to WCC 20.63.550 (Buffer area).

(b) Setback requirements for recreational vehicle parks shall be 30 feet for side and rear yards.

(c) Front yard setback requirements for service islands of service stations shall be 25 feet to the center line of the driveway of the closest service island.

(4) Resort Commercial District.

(a) Setbacks for those parcels situated adjacent to Urban Residential, Residential Rural and Rural Zone Districts shall be administered pursuant to WCC 20.64.550 (Buffer area).

(b) Setback requirements for multifamily housing, including all condominiums except time share condominiums and mobile home parks, shall be 20 feet for side and rear yards.

(c) Setback requirements for recreational vehicle parks, and resort-oriented hotels and motels including time share condominiums shall be 45 feet for front yard, and 20 feet for side and rear yards.

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(d) Setback requirements for nonresort-oriented hotels and motels and nonhabitation commercial development shall be zero feet for side yards and 10 feet for rear yards.

20.80.254 Industrial districts.**(1) Light Impact Industrial District.**

(a) All setbacks shall be increased by one foot for each foot of building height which exceeds 35 feet.

(b) The building setbacks of WCC 20.80.210 shall not apply to utility or security structures such as poles, meters, fences, guard structures and the like. In addition, the zoning administrator may reduce side and rear yard setbacks for other structures as provided by subsection (1)(d) of this section.

(c) Setbacks for parcels adjoining a nonindustrial district(s) shall be administered pursuant to WCC 20.66.550 (Buffer Area).

(d) The zoning administrator may reduce or eliminate side and rear yard setbacks from side and rear property lines that are adjoining an industrial district; provided, that the administrator finds that all of the following provisions are met:

(i) Screening will be provided to protect adjacent uses from unsightliness or visual distraction;

(ii) A site plan has been submitted that shows that all structures and improvements including roof overhangs will not cross property boundaries, and a stormwater management plan has been provided that shows that runoff will be diverted to on-site drainage facilities;

(iii) A reduction in setbacks will not reduce solar access on adjacent properties or if a setback reduction will result in reduced solar access, all parties having an ownership interest in the property adjacent to the side or rear yards to be reduced stipulate in writing, on forms provided by the zoning administrator, to the reductions. The zoning administrator may require a title report to establish the ownership interests in the adjacent property;

(iv) Adjoining properties will be shielded from light sources;

(v) The use and storage of toxic or hazardous materials or processes will not be located within what would otherwise be the setback area unless adequate facilities to contain accidental spills on-site consistent with state regulations are provided;

(vi) The reduced setbacks will not interfere with existing sewer, water and other easements; and

(vii) Reduced setbacks will not result in the creation of a traffic hazard nor will the reduced setback create a circumstance that does not comply with WCC 20.80.210(3), Vision Clearance.

(2) General Manufacturing District.

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(a) All setbacks shall be increased by one foot for each foot of building height which exceeds 35 feet.

(b) The building setbacks of WCC 20.80.210 shall not apply to utility or security structures such as poles, meters, fences, guard structures and the like.

(c) Setbacks for parcels adjoining a nonindustrial district(s) shall be administered pursuant to WCC 20.67.550 (Buffer Area).

(d) The provisions of subsection (1)(d) of this section may be applied to side and rear yard setbacks in the General Manufacturing District.

(e) The zoning administrator may reduce setbacks for nonindustrial buildings to those of Light Impact Industrial if the reduced setbacks would not interfere with existing sewer, water and other easements. A greater reduction in setback requires approval under subsection (2)(d) of this section.

(3) Heavy Impact Industrial District.

(a) All setbacks shall be increased by one foot for each foot of building height, excluding tanks and similar structures, which exceeds 50 feet.

(b) The building setbacks of WCC 20.80.210 shall not apply to utility or security structures such as poles, meters, fences, guard structures and the like, nor to structures relating to shipment on railroad rights-of-way; provided, that no traffic hazards are created. For nonindustrial buildings, the provisions of subsection (2)(e) of this section shall apply.

(c) Setbacks for parcels adjoining a nonindustrial district(s) shall be administered pursuant to WCC 20.68.550 (Buffer Area) and Policy 1.05 of the Heavy Impact Industrial designation of the Cherry Point-Ferndale Subarea Plan.

(d) The setback requirements of the Heavy Impact Industrial District shall apply to the storing and handling of hazardous materials; provided, that if federal and/or state regulations require different setbacks, the greater setback (county, federal, or state) shall be used.

(e) The zoning administrator may reduce setbacks for nonindustrial buildings to those of Light Impact Industrial if the reduced setbacks would not interfere with existing sewer, water and other easements. A greater reduction in setback requires approval under subsection (3)(d) of this section.

(4) Airport Operations District.

(a) Setbacks for parcels adjoining a nonindustrial district shall be administered pursuant to WCC 20.70.550 (Buffer Area).

(b) The provisions of subsection (1)(d) of this section may be applied to side and rear yard setbacks in the Airport Operation District.

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

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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.

Side Yards: Minimum side yard setbacks shall be five feet.

Rear Yards: Minimum rear yard setbacks shall be five feet.

20.80.256 Forestry districts.

(1) Setbacks shall be increased to 100 feet for those parcels in the Rural Forestry zone situated adjacent to the Commercial Forestry zone, except that such parcels whose owners have filed an agreement with the county auditor as specified in WCC 20.42.651 shall be subject to the standard setback in WCC 20.80.210. Forest industry buildings, stationary equipment or storage areas excluding scaling stations and watchman's stations shall not be located within 100 feet of any other zone district.

(2) Parcels utilized solely for community centers shall observe the following minimum setback requirements: front yard: 50 feet; side yard: 25 feet; rear yard: 25 feet.

(3) Where a parcel, created pursuant to the clustering provision (WCC 20.42.300) or the planned unit development provision (Chapter 20.85 WCC) or when a permitted residence (WCC 20.42.056), adjoins an existing parcel of 20 acres or more in size or a parcel that is being cultivated for commercial forestry production, a minimum building setback of 100 feet shall be established from the common property line.

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(4) For parcels of less than five nominal acres, unless the provisions of subsection (2) of this section are applicable, the zoning setback established by the zoning district shall be observed.

20.80.257 Recreation and Open Space District.

(1) Parcels utilized solely for community centers shall observe the following minimum setback requirements: front yard: 50 feet; side yard: 25 feet; rear yard: 25 feet.

(2) Shoreline setbacks shall be administered consistent with the Shoreline Management Program of Whatcom County; provided, that a 25-foot setback is maintained from the ordinary high water mark of all water bodies and a 50-foot setback is maintained from the ordinary high water mark of fish spawn streams.

20.80.258 All districts.

(1) 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.

(2) 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.

20.80.360 Special requirements for individual zone districts.

References to front yard landscaping in (1) through (6) below shall be based on the property line except where the county engineer determines the road is developed at its ultimate width, then the back of the sidewalk can be used.

(1) Urban Residential Medium Density (URM), Neighborhood Commercial (NC); Resort Commercial (RC), and for nonresidential uses in the Residential and Rural Districts: 15 feet within the front yard setback and situated adjacent to the road shall be landscaped with vegetative material, except for driveways, walkways and signs. The remainder of the front yard setback may be used for parking.

(2) Tourist Commercial (TC), Rural General Commercial (RGC) and General Commercial (GC): 10 feet within the front yard setback and situated adjacent to the road shall be landscaped with vegetative material, except for driveways, walkways and signs. The remainder of the front yard setback may be used for parking.

(3) Gateway Industrial (GI):

(a) Fifteen feet within the setback from Portal Way and situated adjacent to the road shall be landscaped with vegetative material, except for driveways, walkways and signs. The remainder of the front yard setback may be used for parking.

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(b) Twenty-five feet within the setback from Interstate 5 and situated adjacent to the road shall be landscaped with vegetative material, except for driveways, walkways and signs. The remainder of the front yard setback may be used for parking.

(4) Rural Industrial and Manufacturing (RIM), Light Impact Industrial (LII) and Airport Operations (AO): 15 feet within the front yard setback and situated adjacent to the road shall be landscaped with vegetative material, except for driveways, walkways and signs. The remainder of the front yard setback may be used for parking. When the Light Impact Industrial zone fronts a minor or local access street the requirements for the General Manufacturing zone may be used.

(5) General Manufacturing (GM): Five feet within the front yard setback and situated adjacent to the road shall be landscaped with vegetative material, except for driveways, walkways and signs. The remainder of the front yard setback may be used for parking. Subject to approval of the county, street trees may be placed in the right-of-way and the five-foot landscaping strip provided contiguous to the building with the front yard setback used for circulation of trucks and heavy equipment. In this situation to provide visual relief open space should be primarily concentrated in the side yards unless natural habitat in the rear such as wetlands or streams are present which should take precedence.

(6) Heavy Impact Industrial (HII): For heavy industrial uses refer to the buffering requirements in WCC 20.68.550. For all other uses the front yard landscaping shall be 15 feet similar to the requirement for the Light Impact Industrial zone.

20.84 Variances, Conditional Uses, Administrative Approval Uses and Appeals**20.84.100 Variances.**

.110 The hearing examiner shall have authority to grant a variance from the provisions of this ordinance and of WCC Title 22, the Guide Meridian Improvement Plan, when, in the opinion of the hearing examiner, the conditions set forth in WCC 20.84.120 herein have been found to exist. In such cases, a variance may be granted which is in harmony with the general purpose and intent of this ordinance so that the spirit of this ordinance shall be observed, public safety and welfare secured, and substantial justice done; provided, that no variance shall be granted which authorizes a use which is not permitted by the underlying zoning.

.120 Before any variance may be granted, it shall be shown that the following circumstances are found to apply:

(1) That any variance granted shall not constitute a grant of special privilege, be based upon reasons of hardship caused by previous actions of the property owner, nor be granted for pecuniary reasons alone;

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(2) Because of special circumstances applicable to the subject property, including size, shape, topography, location or surrounding, the strict application of the zoning ordinance is found to cause a hardship and deprive the subject property of a use or improvement otherwise allowed in the identical zone classification. Aesthetic considerations or design preferences without reference to restrictions based upon the physical characteristics of the property do not constitute sufficient hardship under this section;

(3) The granting of the variance will not be materially detrimental to the public welfare, or injurious to the property or improvements in the vicinity and zone in which the subject is situated.

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