## TITLE OF DOCUMENT:
Presentation of the Governor's Smart Trip Award

## ATTACHMENTS:

<table>
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<th>SEPA review required?</th>
<th>Yes</th>
<th>NO</th>
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<td>SEPA review completed?</td>
<td>Yes</td>
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<th>Should Clerk schedule a hearing?</th>
<th>Yes</th>
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## SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:
If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.

Whatcom County 2016 Comprehensive Plan Update was unique. It brought in new elements including climate change resiliency strategies and Marine Resource Lands section to conserve and enhance Whatcom County’s marine land base for the long-term and sustainable production commercial and recreational economic activities. Smart Choices Award – Implementation of a Comprehensive Plan

## COMMITTEE ACTION:

## COUNCIL ACTION:

<table>
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<tr>
<th>Related County Contract #:</th>
<th>Related File Numbers:</th>
<th>Ordinance or Resolution Number:</th>
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**Please Note:** Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: [www.co.whatcom.wa.us/council](http://www.co.whatcom.wa.us/council).
May 23, 2017

Contacts:  Penny Thomas, Commerce Communications, (206) 256-6106
Mark McCaskill, Managing Director, Growth Management, (360) 725-3055

2017 Governor’s Smart Communities Award Winners Announced

Seven counties, nine cities, two ports, and one college receive awards for innovative growth planning

OLYMPIA – Governor Jay Inslee today announced winners of the 2017 Smart Communities Awards. Now in its 12th year, the program recognizes achievements by local leaders who promote smart growth planning and projects that contribute to thriving communities, a prosperous economy, and sustainable infrastructure in Washington State.

“These projects help create and sustain thriving communities. They facilitate the growth of local economies by creating "quality of place" that can help retain and attract business and broaden the economic growth around the state,” said Gov. Inslee.

The 2017 Governor’s Smart Communities Award winners are:

Smart Vision Award – Comprehensive planning

- **City of Anacortes** included over 1,000 community members to create an exceedingly through and well thought out 2016 Comprehensive Plan. Anacortes showed leadership in planning for smart, sustainable growth and recognizes the important role it serves in protecting surrounding rural, forested, and marine areas so important to Anacortes and Skagit County citizens.

- **City of Hoquiam and the City of Aberdeen** TimberWorks Resiliency and Restoration Master Plan for the cities of Aberdeen and Hoquiam is a strong roadmap for reducing the risk of flooding in their communities. Protecting properties from water damage, reducing the financial costs of flooding, and enhancing the physical character of the community are crucial to economic and community development.

- **Whatcom County** 2016 Comprehensive Plan Update was unique. It brought in new elements including climate change resiliency strategies and Marine Resource Lands section to conserve and enhance Whatcom County’s marine land base for the long-term and sustainable production commercial and recreational economic activities.

Smart Choices Award – Implementation of a comprehensive plan

- **Kittitas County** for its Kittitas County Tourism Infrastructure Plan. A complex project that successfully included an extensive public outreach process involving residents, visitors, and public, nonprofit, and private parties identifying tourism assets, measuring potentials, evaluating strategies. The goal, creating an effective and equitable method of competitively allocating lodging tax revenues for tourism infrastructure development as part of the overall comprehensive plan’s economic development element.
• **City of Sedro-Woolley, Port of Skagit, and Skagit County** Subarea Plan and Planned Action EIS sets the stage for revitalization of the former Northern State Hospital, a National Register Historic District property. This is a model of public-private partnerships applying planning tools to establish a framework for implementation of a community vision.

**Smart Partnerships Award – Project implementing a comprehensive plan**

• **City of Kennewick** Columbia Drive Urban Revitalization Area project demonstrates excellence, innovation, and a creative approach to both planning, funding, and implementation

• **Port of Kennewick** spent millions of dollars buying, clearing, and preparing the waterfront for redevelopment and now the Columbia Drive Urban Revitalization Area project with the City of Kennewick, Benton County, and Columbia Basin College have strengthen historic downtown Kennewick's economy through their shared investments.

• **Benton County** provided $2.1 million in Rural County Capital Funds for infrastructure to complete Columbia Gardens Wine & Artisan Village; and prepare the Willows for commercial development revitalizing tired, neglected properties helping the Columbia Drive Urban Revitalization Area project further leverage valuable community assets.

• **Columbia Basin College** also is a partner in this non-traditional approach to economic development. Their part of the project includes the construction of the Columbia Basin College Culinary Institute, adding to the accessible and sustainable gathering place with activities to attract and engage residents and visitors.

**Smart Projects Award – Development project to implement a plan**

• **City of Kirkland** Arete Mixed-Use Development project has created new economic development opportunities with pedestrian-oriented retail space. The city partnered with a developer around shared commitments to affordability, diversity, quality design, transportation choices, and green building.

**Judges’ Merit Award - The judges also selected two projects for a special merit award**

• **City of Clarkston, Town of Starbuck, Asotin County, Columbia County, and Garfield County** joined together to create a five jurisdiction plan, the Southeast Washington Coalition Shoreline Master Program Update. This is a never-before-seen cooperative Growth Management strategy. The new SEWASMP allows for consistency between local jurisdictions while simultaneously being tailored to each individual region.

• **City of Renton** Galvanizing Art Projects Program is an innovative method of funding locally made public art with limited resources and great results. The projects are transforming empty and meaningless spaces into focal points and engage artists of all ages and skills. It celebrates the diversity of the City and offers opportunities for all, regardless of economics, education, age, gender, or ethnic origin.

**Notable 2017 Submittals**

• City of Hoquiam – Hoquiam Waterfront Boat Launch and Moorage Project
• City of Issaquah – Costco/Issaquah Corporate Campus Development Agreement
• City of Kelso – West Kelso Subarea Plan
• City of Olympia – City of Olympia Action Plan
• City of Renton – Downtown Commercial Rehabilitation and Facade Improvement Loan Program
• City of Ridgefield – Ridgefield Mixed Use Overlay/Commercial Design Standards
• City of Sea Tac – Angle Lake Link Light Rail Station & Parking Facility
• City of Spokane Valley – Spokane Valley Comprehensive Plan
• Island County – 2016 Island County Comprehensive Plan

The Governor’s Smart Communities awards will be highlighted in June at the Association of Washington Cities annual conference at Hilton Vancouver Washington Convention Center in Vancouver and in November at the Washington State Association of Counties annual conference at DoubleTree by Hilton in Sea Tac.

“The 2017 Governor’s Smart Communities Award winners reflect a wide variety of efforts that strengthen communities by engaging in collaborative planning for future growth and economic development,” said Commerce Director Bonlender.

Washington’s comprehensive Growth Management Act has been in place for 27 years. Using it as a framework, local communities plan and implement their vision for the future. For more information on the Governor’s Smart Communities Awards or the Growth Management Act, visit [www.commerce.wa.gov/growth](http://www.commerce.wa.gov/growth).

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**About Commerce**

Commerce is the lead state agency charged with enhancing and promoting sustainable community and economic vitality in Washington State. For more information, please visit [www.commerce.wa.gov](http://www.commerce.wa.gov). To learn about locating or expanding a business in Washington, visit [www.choosewashington.com](http://www.choosewashington.com).
2016 Critical Areas Ordinance Update

- Review of certain questions, comments, and suggestions by Council members related to Article 8, Conservation Program on Agriculture Lands; Article 9, Definitions

ATTACHMENTS: (all current and past materials provided to the Council can be found at http://www.whatcomcounty.us/2417/Council-Council-Review)

A. Staff memo to Council dated July 18, 2017
B. Best Available Science Report 2016 (previously distributed)
C. Chapter 16.16 Draft Critical Areas Ordinance - 2016-06-09, PC adopted (previously distributed)

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

This is another workshop (in a series of many) on the proposed ordinance to amend Whatcom County Critical Areas Ordinance (CAO) (WCC 16.16) pursuant to RCW 36.70A.130(1). The Growth Management Act (RCW 360.70A) defines critical areas as wetlands, frequently flooded areas, fish and wildlife habitat conservation areas (including streams), geologically hazardous areas, and critical aquifer recharge areas. The purpose of this periodic update is to ensure that the CAO meets the GMA requirements, including consistency with the Whatcom County Comprehensive Plan, best available science, and state agency guidance updates. Numerous amendments are being proposed, though most of them pertain to correcting grammar, updating references to other documents or laws, clarifying and updating administrative procedures, etc. The County is also required to integrate the CAO provisions with its Shoreline Master Program (SMP). Whatcom County has done so by adopting the CAO by reference within the SMP (WCC 23.10.060(A)). This reference is also proposed to be amended.

COMMITTEE ACTION:
4/4/2017: Discussed and amended
4/18/2017: Discussed and amended
5/2/2017: Amended and discussed
5/16/2017: Discussed and amended
5/30/2017: Presented, discussed and amended
6/13/2017: Discussed, amended, and approved a motion to request staff to identify and engage all relevant stakeholders to come up with a recommendation for a feedback loop in CARAs

COUNCIL ACTION:

AGENDA BILL CONTINUED ON NEXT PAGE

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
2016 Critical Areas Ordinance Update
Review of certain questions, comments, and suggestions by Council members

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**COMMITTEE ACTION:**
6/27/2017: Discussed and Amended
7/11/2017: Discussed and Amended

**COUNCIL ACTION:**
Memorandum

TO: The Honorable County Council
    Jack Louws, County Executive

FROM: Cliff Strong, Senior Planner

THROUGH: Mark Personius, Asst. Director

DATE: July 18, 2017

SUBJECT: 2016 Critical Areas Ordinance Update
          County Council Review Workshop on July 25, 2017

On July 25th the Council will continue its review of the 2016 Critical Areas Ordinance Update. Topics to be covered include:

• Review of certain questions, comments, and suggestions by Council members related to:
  • Article 8, Conservation Program on Agriculture Lands
  • Article 9, Definitions

To prepare for this meeting, please review this memo. Yellow highlighting in the text indicates a Councilperson’s proposed amendments.
CPAL Minor Issues

ITEM 1 (Originally Issue 139) (Donovan)

16.16.860 Monitoring and Compliance
Subsection (C): Why delete “If the conservation farm plan is found not to be protective of critical areas in the approved farm plan...” and where is the original language that concluded after this deletion?

Staff Response: At your workshop on 7/11/17 this was tabled, as CM Donovan asked that staff find where this concept was already covered. The condition of finding a farm plan to not be protective of critical areas, and the original language that concluded after this deletion became subsection (D) because (C) had addressed two different concepts. Specifically, D.2 addresses the concept of a farm plan failing to protect critical areas.

16.16.860 Monitoring and Compliance
D. Agricultural operations shall cease to be in compliance with this Article, and a new or revised conservation farm plan will be required, when the technical administrator determines that any of the following has occurred:
2. When implementation of the conservation farm plan fails to protect critical areas. If so, a new or revised conservation farm plan shall be required to protect the values and functions of critical areas at the benchmark condition.

ITEM 2 (Originally Issue 166) (Brenner)

16.16.900 Definitions.
“Agricultural activities” means those activities directly pertaining to the production of crops or livestock including, but not limited to: cultivation; harvest; grazing; animal waste storage and disposal; fertilization; the operation and maintenance of farm and stock ponds or drainage ditches, irrigation systems, and canals; and normal maintenance, repair, or operation of existing serviceable structures, facilities, or improved areas. Neither the construction of new structures nor activities that bring an a new, non-ongoing agricultural area into agricultural use are not considered agricultural activities.

Staff Response: Staff does not recommend this change. Where this term is used in the code it is in reference to exempting standard farming practices from some of the rules. However, both constructing new buildings and bringing new areas into agricultural use are supposed to always fall under the standard rules.

At your workshop on 7/11/17 CM Brenner’s motion to strike this language failed. However, Council asked staff to rewrite the last sentence as with all the strikeouts and additions it was hard to read and seemed a cumbersome sentence. For clarity, without all the strikeouts and additions the proposed text would read:

“Neither the construction of new structures nor activities that bring a new, non-ongoing agricultural area into agricultural use are considered agricultural activities.”

Another way of saying this would be:

“The construction of new structures or activities that bring a new, non-ongoing agricultural area into agricultural use, are not considered agricultural activities.”

Both say the same thing, but staff thinks the first of the two options is a little better in terms of sentence structure.
Broadening CPAL to All Ag

As mentioned numerous times, the CPAL program was developed in our original CAO back in 1992 as a way of grandfathering agricultural activities *existing at the time* in areas where those activities had already impacted critical areas\(^1\) prior to the CAO's adoption. It was a program designed specifically for what was defined as "ongoing agriculture."

When the GMA was adopted, it required jurisdictions to protect critical areas' functions and values through a Critical Areas Ordinance. But many counties excluded or ignored the impacts caused by agricultural activities (new or existing) since they wanted to support the agriculture sector. This was challenged several times, and the courts determined that the GMA did apply to agriculture. But the GMA didn't address what to do with ongoing agriculture. Needless to say, this caused a lot of consternation and uncertainty. The legislature responded by directing The William D. Ruckelshaus Center to convene the chief participants in the conflict to work on solutions. Out of that process was born the Voluntary Stewardship Program (VSP) in 2011. Washington's 39 counties then had until January 22, 2012 to decide whether to participate in the new program or to continue under existing law (the CAOs). Twenty-eight counties decided to participate. Whatcom County decided not to join the VSP, but rather stick with our CPAL program, which had already been found to meet the GMA\(^2\). The CPAL program was found to comply since it applied to ongoing agriculture only; new agriculture and buildings still had to meet the CAO requirements.

Staff is concerned because in this update to the CAO, Council has proposed to remove the term "ongoing" from the code, essentially letting the protections given to ongoing ag apply to all (including new) agriculture. We are sympathetic to and share Council's concern for farmers and farming, but are concerned that our CPAL program will no longer be compliant with the GMA's mandate to protect critical areas' functions and values, as the changes would allow all ag to take advantage of reduced standards. As previously explained, while the NRCS BMPs employed through CPAL have been found to be protective of water quality, they do not address habitat. This is fine where habitat had been previously converted to ag uses, but not for new areas converted to ag or new structures in the future.

The tortured case of Clallam County\(^3\) illustrates the pitfalls of exempting certain ag activities from the CAO:

> On December 28, 1999, Clallam adopted Critical Areas regulations, as required by RCW 36.70A.060, as part of the Growth Management Act (GMA).

> Part of Clallam's CAO regulations, Clallam County Code (CCC) 27.12.035(7), exempted pre-existing agricultural operations from the critical areas protection requirements. Protect Peninsula's Future (PPF) petitioned the Growth Management Hearing Board (GMHB) to invalidate the agricultural exemption and other parts of the ordinance. The GMHB found that the agricultural exemption did not comply with the GMA requirements and invalidated that exemption.

\(^1\) i.e., too close to a stream, in a wetland or its buffer, etc.
\(^2\) The state referred the 11 counties who didn't join the VSP to our program as a model at that time.
\(^3\) Excerpts from Clallam County's website at [http://www.clallam.net/LandUse/documents/7HISTORY.pdf](http://www.clallam.net/LandUse/documents/7HISTORY.pdf)
In response, in 2001 Clallam amended the exemptions for ongoing ag in CCC 27.12.035(7) to state the following: “Existing and ongoing agriculture that was conducted prior to the effective date of this chapter on lands designated as critical areas or their associated buffers; provided, that such lands are classified as farm and agricultural land pursuant to Chapter 84.34 RCW; provided further, that all activities occurring on such lands employ best management practices (BMPs). For the purposes of this exemption, acceptable BMPs shall include: (a) activities carried out consistent with farm plans issued and authorized by the Natural Resources Conservation Service (NRCS); (b) activities that demonstrate consistency with total maximum daily loads (TMDL) established by the Department of Ecology for specific operations; and/or (c) activities that demonstrate consistency with standard BMPs published by the NRCS, as now or hereafter amended. Written confirmation by the administrating agency that applicable BMPs are being met will constitute evidence of eligibility for this exemption. (See also CCC 27.12.025(7)).”

The next iteration of the ordinance limited the agricultural exemption only to preexisting agricultural uses on land classified as farm and agricultural land under the open space tax program\(^4\), chapter 84.34 RCW, and required that exempt agricultural operations use best management practices. PPF again petitioned the GMHB for review. The GMHB held that the amended agricultural exemption was invalid, noting that it did not limit its application to GMA-designated agricultural resource areas. On appeal, the Court of Appeals held that the GMHB correctly ruled that Clallam could not exempt all pre-existing agricultural uses from critical areas regulations.

However, Court of Appeals also clarified that Clallam’s agricultural exemption need not be limited to GMA-designated agricultural resource lands. The Court of Appeals remanded to the GMHB for further proceedings, including re-determination of whether the agricultural exemption complied with the GMA.

Before the GMHB could determine on remand whether Clallam’s agricultural exemption complied with the GMA, the legislature in 2007 enacted a moratorium on alteration of GMA critical areas regulations and initiated a policy study. Due to the moratorium, Clallam did not change its critical areas regulations. The moratorium lasted until 2011, when the legislature amended the GMA to add the Voluntary Stewardship Program (VSP). The VSP allows participating counties to comply with the GMA by implementing a watershed work plan that protects critical areas (See RCW 36. 70A.720). A participating county that is unable to implement a VSP work plan may achieve GMA compliance by, among other things, adopting the critical areas regulations of one of four counties: Clallam, Clark, King, or Whatcom. RCW 36.70A.735(1)(b).

In order to participate in the VSP, counties had to elect to participate in the program by January 22, 2012, six months after the effective date of the 2011 amendments (RCW 36.70A.710(1)(b)). Counties that did not elect to participate remained subject to the original GMA provisions.

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\(^4\) I.e., areas specified by Clallam County as GMA-designated ag resource lands
requiring regulations protecting critical areas per RCW 36.70A. 710(6). Clallam did not elect to participate in the VSP.

In August 2012, PPF reinitiated the delayed compliance review before the GMHB. Clallam moved to dismiss the compliance action, claiming that by enacting RCW 36.70A.735(1)(b) the legislature had validated Clallam’s 2001 critical areas regulations and superseded the GMHB’s invalidation order. Therefore, Clallam argued that its regulations were now fully compliant with the GMA. The GMHB agreed with Clallam’s interpretation of RCW 36. 70A. 735(1)(b), stating that “clearly the legislature concluded the development regulations of those four counties were sufficiently protective of critical areas in areas used for agriculture.”

As a result, the GMHB granted the motion to dismiss, which served to rescind its prior order of invalidity. PPF appealed the dismissal to the superior court, which affirmed the GMHB. PPF appealed the Superior Court decision to the Court of Appeals.

On February 18, 2015 the Court of Appeals determined that the GMHB erred by interpreting RCW 36.70A.735(1)(b) as a legislative validation of Clallam’s previously invalidated critical areas regulations for counties not participating in the VSP. The Court of Appeals reversed the GMHB motion to dismiss and remanded the issue back to the GMHB to address the issue of whether Clallam County’s exemption for existing agriculture as amended in 2001 complies with the GMA.

On July 23, 2015 The GMHB issued a Compliance Schedule that provided the county six months to have the issue resolved. The GMHB have issued three 90-day extensions of time, giving Clallam County until July 4, 2016 to update the Critical Areas Code to address the issue of the Critical Area Exemption for existing and on-going agriculture. They finally did that in November 2016, and their definition now reads:

“Existing, ongoing agriculture” means agriculture that is both: (a) on land located within the agricultural retention zoning district and/or on land that meets the criteria and are enrolled in the Washington State open space and agricultural current use program per RCW 84.34.020(2)(b) and (c); and (b) is on land that has been used for agriculture since June 16, 1992, and not ceased use for agriculture for more than five consecutive years at any one time. Changing the type of agricultural activities being conducted is not considered new or expansion of existing agricultural activity. Agriculture that meets the definition of existing, ongoing agriculture on farmed wetlands, farmed wetland pastures, and prior converted wetlands is allowed to continue subject to the provisions of CCC 27.12.037.

The GMHB issued an Order on Remand Finding Compliance, on June 19, 2017 (opening with the line, “This case is believed to be the longest pending matter in the history of the Growth Management Hearings Board...”) This is why staff has recommended against removing the term “ongoing ag,” even where replaced by “a history of legal ag use.” Doing so would allow a category of farmers, who may not qualify as “ongoing ag,” to take advantage of reduced standards in “new” areas put to ag use. Almost all other similar programs, including the VSP, the Clean Water Act, and other Counties use the term “ongoing ag” and define it similarly, i.e., it had to be occurring prior to the adoption of the first set of
rules governing critical areas, and one loses the status if one doesn’t farm for 5 years\textsuperscript{5}. Staff doesn’t want Whatcom County to repeat the tortured process Clallam had to go through were the Council to expand CAO exemptions beyond those currently afforded to ongoing ag. Nor do we want to put our CAO update at greater risk of GMA non-compliance.

Where Has Council Deleted the Term “Ongoing Ag”?
CM Donovan asked for a list of all the places Council has proposed to delete the term “ongoing ag.” These are:

16.16.235 Activities allowed with notification.
B. Activities allowed with notification:
  9. Routine maintenance of ditches on agricultural lands; provided, that all of the following are met:
     a. The maintenance is necessary to support ongoing agricultural operations;
     b. The maintenance activity does not expand the dimensions of the drainage channel beyond the original, lawfully established dimensions;
     c. The agricultural activities are conducted pursuant to an approved conservation farm plan prepared pursuant to WCC 16.16.290;
     d. The farm operator obtains a hydraulic project approval (HPA), if required, from the Washington State Department of Fish and Wildlife (WDFW) prior to the maintenance activity; and
     e. The farm operator provides a copy of the HPA to the technical administrator as part of the written notification.

The following activities may be permitted in wetlands and/or wetland buffers as specified when all reasonable measures have been taken to avoid adverse effects on wetland functions and values as documented through an alternatives analysis, the amount and degree of alteration are limited to the minimum needed to accomplish the project purpose, and compensatory mitigation is provided for all adverse impacts to wetlands that cannot be avoided:
E. Agricultural Uses as follows:
  1. Construction of an appurtenant structure that is associated with a primary agricultural use; or the reconstruction, remodeling, or maintenance of such structures in wetland buffers, subject to all of the following specific criteria:
     i. The structure is located within an existing lot of record that is an ongoing has a history of legal agricultural use.
     ii. There is no other feasible location with less impact to critical areas.
     iii. Clearing and grading activity and impervious surfaces are limited to the minimum necessary to accommodate the proposed structure and, where possible, surfaces shall be made of pervious materials.
  2. Ongoing Agricultural activities subject to the following:
     i. The activities are conducted in accordance with all applicable provisions of this chapter and WCC Title 17; or
     ii. The agricultural activity is in compliance with the Conservation Program on Agricultural Lands (CPAL) as described in Article 8 of this chapter.

16.16.720 Habitat conservation areas – General standards.

\textsuperscript{5} Which is also true for the Open Space/Ag Tax Program.
The following activities may be permitted in habitat conservation areas and/or their buffers when, pursuant to WCC 16.16.255 and 16.16.260, all reasonable measures have been taken to avoid adverse effects on species and habitats, any applicable Washington Department of Fish and Wildlife management recommendations have been applied, mitigation is provided for all adverse impacts that cannot be avoided, and the amount and degree of the alteration are limited to the minimum needed to accomplish the project purpose; provided, that locally important species and habitats shall be subject to WCC 16.16.730:

E. Construction or improvements, other than a building, that are associated with an agricultural use in the outer 25% of the CPAL designated buffer; or the reconstruction, remodeling, or maintenance of such structures in a habitat conservation area buffer, subject to all of the following criteria:

1. The structure is located within an existing lot of record and is an ongoing with a history of legal agricultural use.
2. There is no other feasible location with less impact to critical areas. However, this provision does not apply to reconstruction, maintenance and/or remodeling of pre-existing structure.
3. Clearing and grading activity and impervious surfaces are limited to the minimum necessary to accommodate the proposed structure and, where possible, surfaces shall be made of pervious materials.
4. Unavoidable adverse effects on critical areas are mitigated in accordance with this chapter.

In each of these three instances the deletion of “ongoing” broadens the class of agriculture that can impact streams/ditches or farm in wetlands or HCAs from a very defined subset (those that were grandfathered, i.e., ongoing) to those with a “legal history” of farming. But what does that mean? What’s a “history”? Three days? A year? 10 years? Under federal law, the grandfathered (ongoing) ag loses its protection after 5 years of non-farming, and the same under state law. In putting this draft code together, staff (and the TAC and CAC) tried to normalize our rules with the state and federal rules so that there’s only one set one must remember.

Where Does the Term “Ongoing Ag” Still Occur?
CM Browne also asked that we point out all remaining instances of the term “ongoing agriculture.” That term is still used in: 16.16.800(B), 16.16.830(B)(1)(a) & (b), and 16.16.800 (definitions of ag activities and ongoing ag).

State and Federal Definitions of “Grandfathered” Ag
CM Browne also asked that we provide the state and federal definitions surrounding this issue of “legal” or “grandfathered” agriculture. Those are again attached at the end of this memo.

ITEM 3 (Originally Issues 152 & 153)

16.16.830 Conservation Farm Plans – General Standards.
B. A conservation farm plan shall may not authorize filling, draining, grading, or clearing activities within critical areas or buffers;
1. except-Only on existing ongoing agricultural land where such activities are an demonstrated to be an integral essential part of the ongoing agricultural use or part of routine maintenance; and

16.16.830 Conservation Farm Plans – General Standards.
C. The A conservation farm plan shall not may authorize;
1. The construction of new structures. New structures shall be constructed in compliance with the applicable provisions of this chapter and the Whatcom County Code. Landowners shall ensure that all of the following are met:
   - Siting of structures shall not result in surface or groundwater contamination.
   - Dust, odor, and noise concerns attendant to the use of the improvement shall be mitigated.
   - Impermeable surfaces such as building roofs, roads, and yards shall not change the flow, volume, and/or direction of runoff, or cause erosion or downstream flooding.
2. New or expanded drainage systems. (Routine maintenance of existing drainage systems may be allowed but only in compliance with the Washington State hydraulic code (WAC 220-660) and the Best Management Practices found in the “Drainage Management Guide for Whatcom County Drainage Improvement Districts.”)
3. The conversion of land to agricultural use.

**Staff Response:** At your workshop on 6/13/17 Council rejected the above proposals. CM Browne started to propose some alternative language but the meeting ended prior to Council resolving it. That proposal was:

### 16.16.830 Conservation Farm Plans – General Standards.

B. A conservation farm plan shall not authorize filling, draining, grading, or clearing activities within critical areas or buffers, except only on existing, ongoing agricultural land with a history of legal agricultural uses and where such activities are demonstrated essential part of the ongoing agricultural use or part of routine maintenance; and,

Though Council had a lengthy discussion of these two (related) issues at your 7/11/17 workshop, both were tabled. Based on your discussion, staff has developed new language that we think meets your intent. To better see the new proposed amendments we’ve removed all the previous insertions/deletions and embedded comments that you didn’t discuss (and therefore surmise it’s acceptable). We’ve:

- Reverted the language to “shall not/except” from the “may/only” P/C recommended grammar
- Combined B & C, since both intro paragraphs said the same thing
- Added CM Browne’s language of “history of legal ag use”
- Added Ryan Ericson’s suggestion about “recommend” and a new (c) to make it clear that permits are required for those activities
- Added a new C per CM Sidhu’s request

### 16.16.830 Conservation Farm Plans – General Standards.

A. All conservation farm plans shall include all practicable measures, including Best Management Practices, to maintain existing critical area functions and values.

B. A conservation farm plan shall not recommend nor authorize:

1. Filling, draining, grading, or clearing activities within critical areas or buffers:
   a. Except on agricultural land with a history of legal agricultural use and where such activities are demonstrated essential part of an ongoing agricultural use or part of routine maintenance; and,
   b. When it does not expand the boundaries of an ongoing agricultural use; and,
   c. The appropriate permits for doing so have been obtained.

2. The construction of new structures. New structures shall be constructed in compliance with the applicable standard requirements of this chapter and the Whatcom County Code.
3. New or expanded drainage systems. However, the routine maintenance of existing drainage systems may be allowed, but only in compliance with the Washington State hydraulic code (WAC 220-660) and the Best Management Practices found in the “Drainage Management Guide for Whatcom County Drainage Improvement Districts.”

4. The conversion of land to agricultural use.

C. Other plans prepared for compliance with state or federal regulations (e.g., nutrient management plans), or to obtain an accredited private third-party certification (e.g., GLOBALG.A.P.), or similar plans may be used as part of or in lieu of a Conservation Farm Plan if the Technical Administrator determines they adequately address the requirements of this Title.

Staff supports all these changes with the exception of deleting “ongoing ag” and replacing it with “a history of legal agricultural use” (in 16.16.830(B)(1)(a) for the reasons provided above.

ITEM 4 (Originally Issue 171) (Brenner)

16.16.900 Definitions.

“Ongoing agriculture” means those activities conducted on lands defined in RCW 84.34.020(2), and those activities involved in the production of crops and livestock, including, but not limited to, operation and maintenance of existing farm and stock ponds or drainage ditches, irrigation systems, changes between agricultural activities, and maintenance or repair of existing serviceable structures and facilities. Activities that bring an area into agricultural use are not part of an ongoing activity. An operation ceases to be ongoing when the area on which it was conducted has been converted to a nonagricultural use, or has lain idle for more than five consecutive years unless that idle land is registered in a federal or state soils conservation program. Forest practices are not included in this definition.

Staff Response: Staff does not recommend this change. We realize that several amendments have been proposed that would open up the CPAL program to all farming (both new and existing, or ongoing), but that was never the intent of this program. To do so may make us vulnerable to appeals, since treating new ag as old and allowing new impacts could be construed as violating the GMA.

CPAL Public Disclosure

ITEM 5 (Originally Issue 146) (Weimer)

16.16.870 Limited Public Disclosure

Amend subsection (B) to read:

B. Provided, that the County will collect summary information related to the address and parcel numbers general location of a farming enterprise covered by the farm plan, the nature of the farming activity, and the specific best management practices to be implemented during the conservation farm plan review process, the number of acres included, and the date of the last compliance review. This information, along with a map that shows parcels covered by approved farm plans, will be made easily and publicly available on the county’s website. The summary information shall be provided by the farm operator or his/her designee and shall be used to document the basis for the County’s approval of the plan. Plans shall also be subject to disclosure if required by a court of competent jurisdiction. Upon request, the County may provide a sample
conservation farm plan, exclusive of site- or property-specific information, to give general guidance on the development of a conservation farm plan.

**Staff Response:** At your workshop of 7/11/17 Council tabled this item for further rumination. CM Weimer asked staff to reconsider its position, or at least respond to why we couldn’t release the information he’s suggesting we collect.

However, we still read RCW 42.56(17)(a) as exempting farm plans from disclosure (unless used to apply for a permit). While RCW 42.56.610, RCW 90.64.190, and WAC 16-06-210, allow some information to be released in certain ranges, those only apply to dairies, AFOs, and CAFOs (Type 3) and not (non-dairy) Type 1 or Type 2 farm plans.

Thus, staff still recommends against. As an alternative, may we suggest:

**16.16.870 Limited Public Disclosure**

B. Provided, that the County will collect all summary information that is determined not to be exempt from public disclosure per RCW 42.56.610 and make it publicly available on the county’s website. The summary information shall be provided by the farm operator or his/her designee and shall be used to document the basis for the County’s approval of the plan. Plans shall also be subject to disclosure if required by a court of competent jurisdiction. Upon request, the County may provide a sample conservation farm plan, exclusive of site- or property-specific information, to give general guidance on the development of a conservation farm plan.

This way we can work with our legal staff to determine what is disclosable and would allow us to add more, or less, as the courts refine what is.

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**RCW Chapter 42.56 PUBLIC RECORDS ACT**

**RCW 42.56.270. Financial, commercial, and proprietary information.**

The following financial, commercial, and proprietary information is exempt from disclosure under this chapter:

(17)(a) Farm plans developed by conservation districts, unless permission to release the farm plan is granted by the landowner or operator who requested the plan, or the farm plan is used for the application or issuance of a permit;

(b) Farm plans developed under chapter 90.48 RCW and not under the federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to RCW 42.56.610 and 90.64.190;

**RCW 42.56.610. Certain information from dairies and feedlots limited—Rules.**

The following information in plans, records, and reports obtained by state and local agencies from dairies, animal feeding operations, and concentrated animal feeding operations, not required to apply for a national pollutant discharge elimination system permit is disclosable only in ranges that provide meaningful information to the public while ensuring confidentiality of business information regarding:

(1) Number of animals; (2) volume of livestock nutrients generated; (3) number of acres covered by the plan or used for land application of livestock nutrients; (4) livestock nutrients transferred to other persons; and (5) crop yields. The department of agriculture shall adopt rules to implement this section in consultation with affected state and local agencies.

**Chapter 90.64 RCW DAIRY NUTRIENT MANAGEMENT**

**RCW 90.64.190. Information subject to public records disclosure—Rules.**
This section applies to dairies, AFOs, and CAFOs, not required to apply for a permit. Information in plans, records, and reports obtained by state and local agencies from livestock producers under chapter 510, Laws of 2005 regarding (1) number of animals; (2) volume of livestock nutrients generated; (3) number of acres covered by the plan or used for land application of livestock nutrients; (4) livestock nutrients transferred to other persons; and (5) crop yields shall be disclosable in response to a request for public records under chapter 42.56 RCW only in ranges that provide meaningful information to the public while ensuring confidentiality of business information. The department of agriculture shall adopt rules to implement this section in consultation with affected state and local agencies.

**WAC 16-06-210 Exemptions** (to the Public Disclosure rules).

(29) Under RCW 42.56.610 and 90.64.190, information identifying the number of animals; volume of livestock nutrients generated; number of acres covered by the plan or used for land application of livestock nutrients; livestock nutrients transferred to other persons; and crop yields in plans, records, and reports obtained by state and local agencies from dairies, animal feeding operations, and concentrated animal feeding operations not required to apply for a National Pollutant Discharge Elimination System permit is disclosable in the following ranges: (ranges left out for brevity, but were provided in the memo for the workshop of 7/11/17)

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**CAO Monitoring & Baseline Data**

**ITEM 6 (Originally Issue 148) (Weimer)**

*During the CAO review both the TAC and CAC raised issues regarding the lack of baseline data to allow the County to know whether our CAO is working to protect critical areas. During the CompPlan review the Council built some of this concern into it, and during the Planning Commission review of the CAO they included a finding of fact where they would not agree that the CAO was GMA compliant because of lack of baseline information:*

> The proposed regulations for critical areas are sufficient and appropriate to protect the functions and values of those areas consistent with the Whatcom Comprehensive Plan and Growth Management Act.

*I am assuming that none of us want a similar finding of fact in what the Council ultimately produces. To avoid that, or in at least my case a no vote on the entire CAO, I would request that PDS brings us a plan to address this lack of baseline information. At a minimum the plan should include plans to address obtaining baseline info for wetlands, wildlife, and CARAs, and include an implementation timeline, specifics about what is needed (staffing/consultants/funding), and a proposed funding mechanism/source.***

**Staff Response:** There is no statutory requirement in the GMA to do jurisdiction-wide, long-term monitoring of the CAO’s effectiveness, though the Growth Management Hearings Board in several of their decisions have indicated that doing so would be valuable. That said, staff could only find two jurisdictions (King and Snohomish counties) that have performed such a task. Both were done only once, and both received EPA grants to do so. Nonetheless, over the ensuing months after adoption of the CAO, if Council so desires, staff could develop a monitoring plan proposal (see Table 1, below). (This, along with other issues, was actually raised back in September at your first workshop as a potential follow-up issue for consideration by the Wildlife Advisory Committee.)

Just because the P/C struck the referenced words (above) from the proposed finding doesn’t mean the Council can’t reinsert them if they believe the practices contained within the CAO protect critical areas’
functions and values. Staff believes that it does and we urge you to do so, as it would greatly assist in any future appeals.
<table>
<thead>
<tr>
<th>Tasks</th>
<th>Subtasks</th>
<th>Supports C/P Policies</th>
<th>Est. Add'l FTEs</th>
<th>Est. Cost ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Development Permit Mitigation Monitoring Program</td>
<td>• Continuation of our current 5-year mitigation monitoring program for individual development projects</td>
<td>10A-2, 10K-15, 10M-4, 10L-17</td>
<td>0.25</td>
<td></td>
</tr>
</tbody>
</table>
| Development Permit Mitigation Monitoring Program Review (adaptive management, on-going review every 2 years) | • Internal assessment of program consistency (Permit issuance + Mitigation)  
• Review WDFW High Resolution Change Detection data | 10A-2, 10K-15, 10M-4, 10L-17         |                 |               |
| Countywide Ecosystem Functions and Values Study (initial study) | • Hire a consultant to design the baseline analysis, develop data architecture, develop assessment data forms, and train field crew (WC staff). The baseline analysis is an on-the-ground rapid assessment to ground truth GIS data sets for ecosystem health.  
• Create working relationship with Western University and citizen science community  
• Use a stratified random sampling analysis for site selection in order to maintain statistical integrity. PDS would recommend 7 sites for each unique ecosystem (nearshore/offshore/sand spit, marine riparian, wetland, fresh water stream/ river, fresh water lake, grassland/prairie/AG, upland forest,); for a total of 49 sites. The Wildlife Committee has established 5 habitat categories for their report to Council; the study design would use these categories as one of the stratification levels.  
• Complete Rapid Habitat Assessments for various habitats and wildlife (bird, amphibian, upland vegetation (grassland, forest (secession type), bald), streams, marine riparian, riparian, wetlands, lakes, nearshore  
• GIS Vegetation Change Analysis (WDFW High Resolution Change Detection)  
• Water quality conventional sampling at each site as applicable  
• Wetland Prediction Model (work with Snohomish County and Skagit County)  
• GIS Analysis  
• Laboratory Analysis  
• Citizen Scientist Workshops | 10A-2, 10K-15, 10K-16, 10M-4, 10L-17, 10L-18 | 0.25            | $250,000 - $400,000 |
| Countywide Baseline Ecosystem Functions and Values Monitoring Program (adaptive management, on-going review every 5-years) | • Complete Rapid Habitat Assessments  
• Laboratory Analysis  
• Internal assessment of program consistency (Permit issuance + Mitigation)  
• Wetland Prediction Model Maintenance  
• Citizen Scientist Workshops | 10A-2, 10K-15, 10K-16, 10M-4, 10L-17, 10L-18 | 0.25            | $100,000 (data management and consultant) |
| Additional (potential) Programs | • If we start a mitigation bank  
• If we start/participate in an in-lieu fee program | | | .75            |
Using CPAL to Address Nitrates in the Aquifer

ITEM 7

Is Having High Concentrations of Nitrates in Groundwater a Significant Health Issue? According to the literature, having high concentrations\(^6\) of nitrates in drinking water (primarily from groundwater and wells in rural areas) *may* cause methemoglobinemia\(^7\), generally in infants under 6 months old. We say "may" because more current studies call in to question whether it is caused by high nitrate concentrations or bacteria:

> "The link between nitrate and the occurrence of methaemoglobinemia was based on studies conducted in the 1940s in the midwest of the USA. In part, these studies related the incidence of methaemoglobinemia in babies to nitrate concentrations in rural well water used for making up formula milk replacement. Comly (1945), who first investigated what he called "well-water methaemoglobinemia," found that the wells that provided water for bottle feeding infants contained bacteria as well as nitrate. He also noted that 'in every one of the instances in which cyanosis (the clinical symptom of methaemoglobinemia) developed in infants, the wells were situated near barnyards and pit privies.' There was an absence of methaemoglobinemia when formula milk replacements were made with tap water. Re-evaluation of these original studies indicate that cases of methaemoglobinemia always occurred when wells were contaminated with human or animal excrement and that the well water contained appreciable numbers of bacteria and high concentrations of nitrate (Avery, 1999). This strongly suggests that methaemoglobinemia, induced by well water, resulted from the presence of bacteria in the water rather than nitrate per se. A recent interpretation of these early studies is that gastroenteritis resulting from bacteria in the well water stimulated nitric oxide production in the gut and that this reacted with oxyhaemoglobin in blood, converting it into methaemoglobin (Addiscott, 2005)."

Regardless of whether methemoglobinemia is caused by bacteria or nitrates, treatment of infant cyanosis is simple once the condition has been recognized. If the patient is mildly affected, then he/she must simply refrain from drinking from the contaminated well for a few days and the body will replenish the hemoglobin by itself in a few days. However, if the patient is severely cyanotic, methylene blue must be administered intravenously in a dosage of 1-2 mg/kg of body weight for a ten-minute period and improvement should be prompt.

Additionally there are simple methods to prevent this syndrome. Residents of rural areas should have their wells tested\(^8\), especially if pregnant women or infants are consumers of the well water. If the well is contaminated, other water source alternatives are other safe wells, bottled water, a new, deeper well, or a water purification

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\(^6\) The Environmental Protection Agency (EPA) has set the Maximum Contaminant Level (MCL) of nitrate as nitrogen (NO\(_3\)-N) at 10 mg/L (or 10 parts per million) for the safety of drinking water.

\(^7\) AKA "blue baby syndrome," a condition wherein nitrates alter a blood protein, which prevents the blood cells from absorbing oxygen and can lead to slow suffocation and death. Since 1945, there have been over 2,000 cases of infant methemoglobinemia reported in Europe and North America with 7 to 8 percent of the afflicted infants dying. The WC Health Department is unaware of any known cases of methemoglobinemia in Whatcom County.

\(^8\) Always recommended by the WCHD
system\textsuperscript{9} which is capable of removing the nitrates. It's also suggested that because cyanotic babies usually contract methemoglobinemia from the water used to prepare their formulas, formulas which use diluted whole milk are less risky than those prepared from powdered or evaporated milk which require large amounts of water in preparation. Breast feeding or the use of bottled water in formula preparation offers the safest solution, especially if the groundwater quality is unknown.

\textbf{Response to Council's Motion of June 13, 2017}

At your direction, PDS staff met with John Wolpers (WCHD) and George Boggs (WCD) to address your request for additional information and methods of protecting groundwater from nitrate contamination. In your last workshop we heard broad support, if not unanimity, for an approach that incorporated the following elements:

\begin{itemize}
  \item Raising awareness and recruiting adoption of groundwater protective measures through education and outreach,
  \item Afford the opportunity for landowners to take initiative in identifying and implementing protective measures,
  \item Should be some sort of a self-administered pollution prevention checklist and self-reporting with a feedback loop similar to how the WC Health Dept. addresses failing septic systems,
  \item Incorporate community and stakeholder in identifying additional measures, and
  \item Focus efforts, at least initially, to obtain the greatest benefit in the shortest possible time.
\end{itemize}

\textbf{Current Efforts}

In thinking about next steps, we should look at current efforts to protect groundwater in order to identify potential gaps that could be filled by early actions. In your memo for your 5/30/17 workshop we provided you Table 1, Agencies with Roles in Minimizing Agricultural Impacts on the Environment, which outlined everything all the agencies are doing. Specifically in regard to protecting the aquifer against nitrates, we offer the following details of our local agencies' efforts.

\textbf{Whatcom Conservation District}

While there are some qualified professionals that can develop farm plans, the majority are produced by the WCD.

\textbf{Conservation Farm Plans}

\textbf{Type 1 (small/low intensity farms)} Groundwater is protected in these types of operations because this relatively simple plan is limited to less than 1 animal unit/acre) and the operation may not collect and apply liquid manure. In a low productivity pasture, one horse would meet from 30 to 61% of the nitrogen needed by the crop. One beef cow would meet from 35% to 84% of nitrogen needed by the crop. So, if the animals are grazed and the solid manure spread evenly across the field the grass is sure to consume all available nitrogen. None remains to be converted to nitrate and lost to the aquifer with fall and winter rains. Liquid manure requires special management in terms of capturing, storing and applying in order to avoid environmental impacts to surface and ground water. If the operator desires to do this for his/her operation then they must obtain a Type 2 custom plan.

\textsuperscript{9} Also recommended by the WCHD
Type 3 (Dairies/Other livestock operations put under a National Pollution Discharge Elimination System Permit). The appropriate capture, storage, and application of manure are central to these types of plans. In the case of dairies, the WA State Dept. of Agriculture (WSDA) inspects the dairy at least every other year. It monitors nutrient management records to ensure that they reflect that the manure applications have been applied at "agronomic" rates. This means that the amount and timing of the applications are to meet reasonably attained crop yields. It is estimated that as much of 70% of the dairies/large livestock operations (>200 animal units) are subject to the new Confined Animal Feeding Operation (CAFO) Permit. There are mandatory provisions of the CAFO Permit that impose additional manure management including monitoring, storage, and application. These plans can be very detailed and complex given the nature of the respective operations. There are annual reporting requirements. The WA Dept. of Ecology provides oversight along with WSDA.

Type 2 (All other farming operations not either a Type 1 or 3). It is the policy of the WCD to write all plans in a manner to protect critical areas. Nutrient management to protect groundwater is necessarily included in every plan, and the most current applicable guidance relative to fertilization is included. This is often drawn from Oregon and Washington Extension and the Agriculture Canada experiment station in Agassi, BC.

Education & Outreach
With the funding made available through its Pollution Identification and Correction (PIC) Program and Birch Bay Interlocal agreements with the County, the WCD developed and maintains a robust education and outreach program for livestock operations of all sizes and berry growers.

Please see the attached WCD 2016 report of accomplishments (provided in your 7/11/17 memo). It describes the breadth of activities taken to protect surface and groundwater.

Whatcom County Health Department

Well Testing
The Whatcom County Health Department provides review of water availability for those seeking to develop property. When an individual well is drilled, they require testing to assure that the property will be served with safe and reliable potable water. If a contaminant (e.g., nitrate) is detected above the Maximum Contaminant Level (MCL) they require mitigation. If a MCL is detected (nitrate for instance), they require technology mitigation. The Health Department also provides education to property owners on proper operation and maintenance of the technology.

The Group B regulations (those public water systems serving less than 15 connections) now require all proposed new systems developed to not exceed primary contaminant levels or they cannot be developed for use and must find an alternate source for potable water. Systems already in existence with high levels of nitrates require mitigation that can either be at the source or point of use.

OSS Self-Certification Process
On-site sewage systems (OSS) must be evaluated regularly in order to work properly. State and local regulations require gravity OSS be evaluated every three years and all other system types annually. The OSS owner is responsible for properly operating, monitoring, maintaining their OSS. Whatcom County Health Department (WCHD) licenses operation and maintenance (O&M) specialists that can provide this service to OSS owners. WCHD also allows homeowners to perform their own OSS evaluation. Homeowners can perform their
own evaluation after attending an in-person WCHD sponsored homeowner workshop or completing the on-line homeowner training. Once a property owner has been certified, they complete the evaluation and submit a report to WCHD. The following items must be included, or the report will not be accepted:

- Photos of exposed septic tank and outlet baffle
- Site sketch of OSS if no permit is on file
- Certification form
- Must be submitted within 30 days of evaluation

Staff performs audit inspections of homeowner evaluations that are submitted to verify completeness and accuracy. If during the audit process an OSS owner is found to have not completed the evaluation or misrepresented an OSS failure, the OSS owner’s certification is revoked and all subsequent evaluations must be completed by a licensed professional. Homeowners are not eligible to conduct evaluations for the following:

1. OSS with proprietary components
2. Community drainfields
3. Nonconforming replacement OSS installed as a result of a failing system
4. Food establishment
5. Property transfers

Washington State Department of Health
The Washington State Department of Health requires Group A public water systems (greater than 15 connections) to submit sampling on a scheduled basis. If a maximum contaminant is found, there are options to address through blending sources or technology treatment.

Additional Background Information
In addition to agriculture there is a multitude of potential sources of nitrate in the groundwater. These include onsite septic systems, nutrient management practices in the Lower Fraser River Valley of B.C., residential lawn fertilizers, and the natural environment. An onsite septic system (OSS) can generate between 6 and 17 grams of total nitrogen (N) per person per day (2002 EPA study). The calculated loss of N for residences in the Yakima Ground Water Management Area ranged from 195 to 225 lbs. of nitrogen per year. Soils greatly affect the rate of nitrogen loss. There is an estimated 27,000 OSS in rural Whatcom County. In a 2010 study the EPA identified Red Alder as a significant source of nitrate in two Oregon coastal river systems. (See https://cfpub.epa.gov/si/si_public_record_report.cfm?dirEntryId=230765). These are mentioned to perhaps temper the expectation that we can be successful in achieving the desired quality of groundwater in a piecemeal manner.

Conclusion
It is important to note that the latest overall nitrate trend in well data from 2010 (31 wells) to 2016 (20 wells) monitored by Ecology has dropped and remained below the 10ppm MCL, though some individual wells near Lynden are still of concern. Of the 2016 data, only 5 of 20 wells are above 10 ppm and trending up. Four additional wells are slightly below 10 ppm. (See Attachment A)

Two conclusions flow from this. First, the current program of regulatory compliance, monitoring, education, outreach, and technical assistance must have some palpable efficacy to see this kind of improvement. Second,
there is opportunity for improvement but most likely focused on the limited geographic areas in the north County where the nitrate issue is most acute.

Options for the Future

Near Term
The County could:

- **Conduct a targeted education and outreach program.** The twenty wells that Ecology has and continues to monitor could serve as a basis for identifying affected landowners. Messaging could be tailored to generators of nitrogen and consumers of private wells. The WCD, WC Health Dept., and WSU Extension could coordinate and collaborate on messaging. Goals would be to reduce nitrogen contribution to groundwater and ensure that those whose source of potable water is from private wells regularly test their water to avoid potential adverse health impacts.

- **Improve coordination of groundwater quality monitoring** and remediation strategies among the Department of Ecology, Department of Health, Whatcom Conservation District, WC Health Department, and WC Planning and Development Services.

Intermediate Term
The County could:

- **Support the Nooksack-Abbotsford-Sumas Transboundary Study.** Nearly 30 organizations are collaborating on a nitrogen assessment for the Lower Fraser River Valley and Whatcom County. This is one of six multi-national pilots in the World that is looking at managing nitrogen more effectively to avoid environmental impacts such as too much nitrate in groundwater. Ostensibly, the assessment and solution development will include the community, stakeholders, and agencies. (See Attachment B). One recommendation could be to evaluate whether or not the County should form a Ground Water Management Area (GWMA) and/or Aquifer Protection Area (APA) as provided under State law.

- **Conduct seek an assessment of potable water wells** that could inform the delineation of boundaries for a future groundwater management area.

Longer Term
The County could:

- **Create a Ground Water Management Area** pursuant RCW 90.44.400 and WAC 173-100. This statute lays out a process for publicly delineating boundaries then studying the aquifer using an advisory committee made up of stakeholders, the County, and the Department of Ecology. From this would be the development of a groundwater management plan that could identify solutions and funding sources, which can then be used by agencies with jurisdiction (i.e., the County) to develop the appropriate remedies and regulations. For information on the Yakima GWMA see [http://www.yakimacounty.us/541/Groundwater-Management-Area](http://www.yakimacounty.us/541/Groundwater-Management-Area).

- **Create an Aquifer Protection Area** pursuant to RCW Chapter 36.36. This statute allows for the creation of aquifer protection areas to finance the protection, preservation, and rehabilitation of subterranean

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10 See Attachment C – State Mechanisms for Groundwater Protection
water, and to reduce other special assessments imposed upon households to finance facilities for such purposes. Revenue is collected from fees assessed for withdrawals from the aquifer.

Using either or both of these mechanisms seems to address the key components of a desired program that Council addressed in their motion.

**Lahar Hazard Zones**

**ITEM 8**

The Mount Baker Bibleway Camp submitted a comment letter to Council dated 7/14/17 regarding concerns with the proposed lahar regulations. Mark Personius met with them last week to allay their fears, explaining that the more specific regulations of 16.16.350 (Volcanic hazard areas – Standards) would trump the general standards of 16.16.320 (Geologically hazardous areas – General standards). However, given that 16.16.350(B)(2) says “Subject to WCC 16.16.320(A, B, and C)” the Camp is still concerned that staff could use that section to minimize risks, avoid impacts, protect human life, or worse case, deny a project, contrary to Council’s intent.

Staff is concerned with removing the “subject to...” language, as there are many properties in the lahar zone where these could be implemented without affecting someone’s ability to use their property and make for a safer development. And were the Camp to expand, staff really doesn’t see a problem with applying 16.16.320(A) or (C): the County should be able to condition a permit to reduce hazards (such as adoption of an emergency evacuation plan), and if someone owns a large enough property to build out of the hazard area, then logic dictates that option should be evaluated. The Camp is more concerned with the last sentence of 16.16.320(B), “For some geologic hazards, impact avoidance may mean no development will be permitted on a property,” fearing that staff would use this to deny an expansion of their Camp (even though 16.16.350(B)(2)(a) says that expansion of legal nonconforming uses is allowed).

To address this concern, staff recommends the following minor revision:

**16.16.320 Geologically hazardous areas – General standards.**

In addition to the applicable general protective measures found in WWC 16.16.265, the following requirements shall apply to all activities in geologically hazardous areas:

**A. Generally.** New developments shall be located and/or engineered and constructed to reduce risks to life, health, safety, and buildings, and not increase potential for landslides or erosion that could impact either other properties, public resources, or other critical areas. The County may impose conditions on development activity in a geologically hazardous area as needed to:

1. Protect human life and safety;
2. Minimize the potential for property damage related to seismic events, erosion and/or landslides;
3. Minimize the need for stream or river bank or coastal bluff stabilization in the future;
4. Reduce public liabilities for damages associated with geologic hazards.
5. Protect slope stability and minimize erosion, seismic, and/or landslide hazard risks;
6. Maintain natural sediment and erosion processes that are integral to the health and sustainability of freshwater and marine ecosystems as well as minimizing impacts to stream, river, and coastal processes such as channel infill, channel migration, sediment transport, or flooding;
B. **Impact Avoidance.** Impact avoidance measures shall include, but not be limited to, locating the use/development outside of the hazard area, reducing the number, size or scale of buildings, driveways and other features; altering the configuration or layout of the proposed development; implementing special engineering methods for construction, drainage, runoff management etc.; foregoing construction of accessory structures; preserving native vegetation; and other feasible protective measures as determined by an alternatives analysis. For some geologic hazards, except for laharc hazard zones, impact avoidance may mean no development will be permitted on a property.

C. **Location of Alterations.** New development shall be directed toward portions of a parcel or parcels under contiguous ownership that are not subject to, or at risk from, geological hazards and/or are outside any setback or buffer established by this Chapter.

**16.16.350 Volcanic hazard areas – Standards.**

**B. Lahar Hazard Zones.**

1. Subject to WCC 16.16.320(A, B, and C) and WCC 16.16.265, the following uses are allowed in any volcanic hazard areas:
   b. Accessory structures not involving human occupancy.
   c. Sewer collection facilities, communication facilities, and other utilities that are not likely to cause harm to people or the environment if inundated by a lahar. Underground utilities such as pipelines shall be allowed if demonstrated through a geotechnical analysis to be sufficiently buried as to not likely be damaged by scour caused by a lahar.
   d. Agricultural and forestry uses not including human habitation.

2. Subject to WCC 16.16.320(A, B, and C) and WCC 16.16.265 (except subsection (D) when located wholly within a lahar hazard zone), the following uses may be allowed in volcanic hazard areas subject to the submittal and approval of a Volcanic Hazard Emergency Management Plan meeting the requirements of subsection (B)(3); however, this requirement may be waived for properties located in an area with an estimated lahar arrival time of more than 60 minutes. The County will maintain travel time projection maps to estimate lahar approach times.
   b. All other uses allowed per the property’s zoning district.

3. Where required by subsection (B)(2), a Volcanic Hazard Emergency Management Plan shall be submitted for approval and meet the following requirements:
   a. Is consistent with and integrated into a community emergency plan maintained by the Sheriff’s Office of Emergency Management.
   b. Includes an emergency evacuation plan.
   c. Is required to be updated every 5 years.
   d. Evacuation route maps must be posted on the premises.

The Camp is also concerned with 16.16.265(D) (Critical areas protective measures), in particular the requirement to have a building setback from a geohazard setback.

**16.16.265 Critical areas protective measures.**

When an impact to critical area or a buffer will occur due to a proposed development, a standard buffer width has been altered, or mitigation is required, one or more of the following protective measures shall be applied:

**D. Building Setback.** The County shall require buildings and other structures to be set back a minimum distance of 10 feet from the edge of a geological hazard setback, a critical area buffer, or from the critical area where no buffer is required. The following uses are allowed in the building setback:

1. Landscaping;
2. Uncovered decks;
3. Building overhangs 18 inches or less;
4. Impervious surfaces such as driveways, parking lots, roads, and patios; provided, that such surfaces conform to the applicable water quality standards and that construction equipment does not enter or damage the buffer or critical area;
5. Clearing and grading;
6. Wells.

The reason for a 10-foot setback from a critical area buffer is to give homeowners room to maintain their structures without having to disturb the buffer. For example, if a home was built right up to a wetland buffer, then when it was time to paint, the ladder and all the painting equipment would need to be placed in the buffer and vegetation would probably need to be disturbed or removed to access it. The point of this section is to protect the buffer from future impacts. In this update the term “geological hazard setback” was inserted in 16.16.265(D) because in Article 3, geohazard “buffer” was changed to “setback” (the geologists arguing that it’s not a buffer per se, as we’re not trying to protect the geohazard as we are with other critical areas, but rather life and property). The existing code still refers to geohazard buffers, so the language in WCC 16.16.265(D) still applies to geohazards. It’s just a matter of semantics.

The Camp was told that where an entire property falls within a lahar hazard zone there wouldn’t be a geological hazard setback, and thus this 10-foot setback wouldn’t be applied. Nonetheless, staff suggests adding that specification to WCC 16.16.350(8)(2), as shown above.
DOE EIM Well Data

Analyzed 6/11/2017

Data set from ongoing study.
Average of All Wells

Trend line Down
Recent Trend Down
Below 10 ppm Yes

Nitrate-N (ppm) (mg/L)

0 2 4 6 8 10 12 14

10 ppm
ABO112

Trend line Down
Recent Trend Down
Below 10ppm Yes

Nitrate-N (ppm)
(mg/L)


10 ppm
AGO409

<table>
<thead>
<tr>
<th>Trend line</th>
<th>Recent Trend</th>
<th>Below 10ppm</th>
</tr>
</thead>
<tbody>
<tr>
<td>Down</td>
<td>Up</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Nitrate-N

(ppm) (mg/L)

10 ppm

BCS970

<table>
<thead>
<tr>
<th>Trend line</th>
<th>Recent Trend</th>
<th>Below 10ppm</th>
</tr>
</thead>
<tbody>
<tr>
<td>Down</td>
<td>Down</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Nitrate-N (ppm) (mg/L)

- 2008
- 2009
- 2010
- 2012
- 2013
- 2014
- 2016
- 2017

- 0
- 2
- 4
- 6
- 8
- 10
- 12
- 14
- 16
- 18
- 20

- 10 ppm
BCS966

Trend line: Up
Recent Trend: Up
Below 10ppm: Yes

Nitrate-N (ppm) (mg/L)

[Graph showing fluctuations in Nitrate-N levels from 2008 to 2017 with a trend line indicating an upward trend.]
BCS967

Trend line
Down

Recent Trend
Up

Below 10 ppm
Yes

Nitrate-N
(ppm)
(mg/L)

BCS968

Trend line
Up

Recent Trend
Up

Below 10ppm
No

Nitrate-N
(ppm)
(mg/L)


10 ppm
BCS965

Trend line: Up
Recent Trend: Up
Below 10 ppm: No

Nitrate-N (ppm) (mg/L)


10 ppm
BCS969

<table>
<thead>
<tr>
<th>Trend line</th>
<th>Recent Trend</th>
<th>Below 10ppm</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up</td>
<td>Up</td>
<td>No</td>
</tr>
</tbody>
</table>

Nitrate-N (ppm) (mg/L)

Graph showing the trend of Nitrate-N over the years from 2008 to 2017. The graph includes a trend line and recent trend line. The horizontal line at 10 ppm indicates the threshold level.
BCS960

Trend line
Down

Recent Trend
Up

Below 10ppm
No

Nitrate-N
/ppm
(mg/L)


10 ppm
BCS959

<table>
<thead>
<tr>
<th></th>
<th>Trend line</th>
<th>Recent Trend</th>
<th>Below 10ppm</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Up</td>
<td>Up</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Nitrate-N (ppm) (mg/L)

Year:
- 2008
- 2009
- 2010
- 2012
- 2013
- 2014
- 2016
- 2017

Graph showing the trend of Nitrate-N from 2008 to 2017.
BCS963

Trend line
Down

Recent Trend
Up

Below 10ppm
Yes

Nitrate-N
(ppm)
(mg/L)

BCS961

Trend line
Down

Recent Trend
Down

Below 10ppm
Yes

Nitrate-N
(ppm)
(mg/L)

BCS962

Trend line Down

Recent Trend Down

Below 10ppm Yes

Nitrate-N (ppm) (mg/L)


10 ppm
BCS952

Trend line
Flat

Recent Trend
Up

Below 10ppm
No

Nitrate-N
(ppm)
(mg/L)


10 ppm
BCS953

Trend line
Down

Recent Trend
Up

Below 10ppm
No

Nitrate-N
(ppm)
(mg/L)

10 ppm

BCS956

Trend line: Down
Recent Trend: Down
Below 10ppm: Yes

Nitrate-N (ppm) (mg/L)

BCS955

Trend line
Up

Recent Trend
Down

Below 10ppm
Yes

Nitrate-N
/ppm
/mg/L

AGF141

Trend line
Flat

Recent Trend
Down

Below 10ppm
Yes

Nitrate-N
(ppm)
(mg/L)


10 ppm

BES971

Trend line
Down

Recent Trend
Down

Below 10ppm
Yes

Nitrate-N
(ppm)
(mg/L)

2008 2009 2010 2011 2012 2013

10 ppm
Nooksack-Abbotsford-Sumas Transboundary Study:
Developing a nitrogen assessment to support nitrogen management

We need your help make this a successful project!

What is this project about?

The Nooksack-Abbotsford-Sumas Transboundary Study is a North American pilot demonstration of a global initiative. It gathers stakeholders to work together to understand and address problems and opportunities associated with modern beneficial uses of nitrogen (N) for food and manufacturing. The Nooksack-Abbotsford-Sumas region includes a diverse set of fairly well organized stakeholders in a relatively small, transnational watershed. This diversity and scale provides a unique opportunity to work collaboratively with stakeholders to better understand and manage nitrogen.

The issues we struggle with are common to many other parts of the world. For example, excess nitrate concentrations in the aquifer shared by Canada and the USA affect thousands of wells and households in both countries. Concentrations in some water supply wells often exceed U.S., Canadian, and international drinking water standards and guidelines of 10 ppm nitrate-N that were set to safeguard human health (especially infants). High concentrations have been observed since the 1970s.

What is Nitrogen?

Nitrogen (N) is an essential element that is found in all living things. It builds the proteins that do the cellular work that keeps all organisms alive. Ironically, while we are surrounded by N (it makes up 78% of Earth’s atmosphere), it is in a biologically unavailable form necessary for plant growth, including for agriculture.

People have added this essential nutrient to increase crop production through use of legumes, recycling animal manures and plant residues, and industrial production of fertilizer. Ready access to cheap and abundant plant available N has contributed greatly to the abundance of affordable food in many parts of the world. Excess nitrogen use in some areas contributes to water pollution, in surface and groundwater. Biologically available nitrogen is also made as a by-product of burning fossil fuels for energy generation, industrial processes, and transportation. In such cases, it can be an important contributor to air pollution, such as haze or smog. The challenge society now faces is how to exploit nitrogen for its benefits in a sustainable manner without harming air, water, and soil. The health and well being of future generations is at stake.
Nitrogen has environmental impacts, and high concentrations can degrade surface water quality and may harm fish in the river. It can also contribute to localized ocean pollution, promoting toxic algal blooms or acidification. In addition to the shared aquifer and surface waters, our region shares an airshed. Emissions into the atmosphere of certain nitrogen forms, such as ammonia and nitrogen oxides from transportation, agriculture, and metropolitan areas, including Vancouver, add to the regional nitrogen surplus. These forms of nitrogen in the atmosphere contribute to smog, poor visibility, and respiratory ailments in humans, and eventually are deposited back on the earth where they acidify both soil and water, and can be re-emitted in a new form that contributes to global warming.

**How will this project help and inform the local community?**

1. Create a comprehensive inventory of N inputs from many sources (including natural sources, inputs from urban land, emissions, and agricultural inputs).
2. Identify voluntary approaches and best practices to reducing nitrate losses to the environment.
3. Provide a website containing a spatial database on N loading and related air and water quality information to be accessed by local stakeholders.
The goals of the project are to:

1. **Create a nitrogen inventory**: Trace and quantify the sources and movement of nitrogen, both inside and outside our study area. The first step in the project is to gather all of the currently available qualitative (who and what) and quantitative (how much) information on nitrogen sources and uses including inputs and outputs. Next would be to quantify effects of different nitrogen types on resources (i.e., air, surface water, groundwater, soil, etc.), and to identify knowledge gaps.

2. **Share among stakeholders**: Bring together stakeholders in the study region to share the information collected in Step 1 and collect their input, knowledge and concerns. This second step aims to find out what kinds of information or management tools would be most useful to different stakeholders. Anyone affected by nitrogen in some way is a stakeholder who is welcome to participate, adding your information, knowledge, and perspective, such as:
   a. People living here, using and working with the land, air and water resources,
   b. Groups/entities supporting stakeholder deliberations by providing objective information and scientific understanding, and
   c. Governmental representatives who might later on be responsible for supporting implementation of any strategies that are agreed upon by stakeholders.

3. **Identify and evaluate solutions**: Work with all stakeholders to develop a menu of strategies for dealing with regional nitrogen issues, along with pros and cons. The goal of this third step is to find ways to work together to protect local food production, the economy, and natural resources, including air and water. Gathering and presenting a common set of biophysical facts and viewing them from multiple socioeconomic perspectives can help everyone to understand the problems and to identify the preferred potential solutions to a variety of nitrogen-related issues.
Who are the parties involved?
An international team of scientists and natural resource professionals from Canada, the United States, the Lummi Nation and the Nooksack Indian Tribe are collaborating in this project to develop a regional nitrogen assessment for the Nooksack-Abbotsford-Sumas Transboundary Region. So far, about 50 individuals from a diverse array of agencies, organizations, tribes, and institutions have participated in initial meetings and correspondence. In addition to a small amount of financial support from the National Science Foundation and the Environmental Protection Agency, stakeholders donate their time and resources. Additional funding is being sought.

How do I interact with the project?
In order to make a successful and effective model of nitrogen use and cycling, we need the most current and accurate information we can gather. This will require stakeholders, individual land users and industries to assist us by providing data relevant and representative to their individual nitrogen use activities, including recommendations for best management practices based on local ideas. If approached for information, please consider working with us. The highest quality discussions about possible management strategies—which we want to encourage—will only happen if we have highest quality information to work with.

What do you plan to do with the data collected?
Locally, we hope to work with stakeholders to provide information that can be used to develop lasting nitrogen management solutions that benefit everyone in the Nooksack-Abbotsford-Sumas Transboundary Region. This may include promotion of successful nitrogen management practices, suggestions to modify current activities to reduce nitrogen losses, and looking to the future to reduce potential nitrogen losses. Our intent is to inform the public and stakeholders about nitrogen cycling in the project area with the hope that different sectors can use it to modify and promote behaviors as appropriate. Our intent is not to use the data for regulatory purposes.

Internationally, the data, and the ways in which we use them, will serve as the North American demonstration project for the International Nitrogen Management System (http://www.inms.international/), a program of the Global Environmental Facility and the International Nitrogen Initiative. Other demonstration projects are being developed in Latin America, Africa, Western Europe, Eastern Europe, Asia, and Australia.

Will the data/results be used in a regulatory context?
If no, how can you ensure that? If yes, how does that affect me?
Our intent is to provide scientifically sound, objective information that can be used by local stakeholders to identify common regional goals and practical, comprehensive, and sustainable solutions where everyone, including people and their livelihoods, and the environment, benefits. More regulation should be the last and least preferable resort.
Who is involved?

Western Washington University
University of Washington – Vancouver
University of British Columbia
Northwest Indian College
University of Maryland
Colorado State University
Washington Department of Health
Whatcom Conservation District
Natural Resource Marketplace Working Group
Northwest Straits Commission
Washington State Department of Ecology
Washington State Department of Agriculture
Washington State Department of Health
British Columbia Ministry of Agriculture
British Columbia Ministry of Environment
Lummi Nation
Nooksack Indian Tribe
U.S. Geological Survey
U.S. Environmental Protection Agency
USDA Natural Resource Conservation Agency
National Park Service
National Oceanic and Atmospheric Administration
Environment and Climate Change Canada
Agriculture and Agri-Food Canada
International Nitrogen Initiative
International Nitrogen Management System

For more information please check our webpage or contact:

https://drive.google.com/drive/u/0/folders/087CVzwwALo12NTT4dKc1Q3dHamM

Jill Baron, U.S. Geological Survey, International Nitrogen Initiative (jill.baron@usgs.gov)
David Hooper, Western Washington University (david.hooper@wwu.edu)
Jana Compton, U.S. Environmental Protection Agency (Compton.Jana@epa.gov)
Shabtai Bitman, Agriculture and Agri-Food Canada (shabtai.bittman@agr.gc.ca)
Nichole Embertson, Whatcom Conservation District (Nembertson@whatcomcd.org)
George Boggs, Whatcom Conservation District (GBoggs@whatcomcd.org)
Attachment C: State & Federal Definitions of Agricultural Land

RCW Chapter 84.34 Open Space, Agricultural, Timberlands—Current Use—Conservation Futures

84.34.020 Definitions.
(2) "Farm and agricultural land" means:
(a) Any parcel of land that is twenty or more acres or multiple parcels of land that are contiguous and total twenty or more acres:
   (i) Devoted primarily to the production of livestock or agricultural commodities for commercial purposes;
   (ii) Enrolled in the federal conservation reserve program or its successor administered by the United States department of agriculture; or
   (iii) Other similar commercial activities as may be established by rule;
(b)(i) Any parcel of land that is five acres or more but less than twenty acres devoted primarily to agricultural uses, which has produced a gross income from agricultural uses equivalent to, as of January 1, 1993:
   (A) One hundred dollars or more per acre per year for three of the five calendar years preceding the date of application for classification under this chapter for all parcels of land that are classified under this subsection or all parcels of land for which an application for classification under this subsection is made with the granting authority prior to January 1, 1993; and
   (B) On or after January 1, 1993, two hundred dollars or more per acre per year for three of the five calendar years preceding the date of application for classification under this chapter;
   (ii) For the purposes of (b)(i) of this subsection, "gross income from agricultural uses" includes, but is not limited to, the wholesale value of agricultural products donated to nonprofit food banks or feeding programs;
(c) Any parcel of land of less than five acres devoted primarily to agricultural uses which has produced a gross income as of January 1, 1993, of:
   (i) One thousand dollars or more per year for three of the five calendar years preceding the date of application for classification under this chapter for all parcels of land that are classified under this subsection or all parcels of land for which an application for classification under this subsection is made with the granting authority prior to January 1, 1993; and
   (ii) On or after January 1, 1993, fifteen hundred dollars or more per year for three of the five calendar years preceding the date of application for classification under this chapter. Parcels of land described in (b)(i)(A) and (c)(i) of this subsection will, upon any transfer of the property excluding a transfer to a surviving spouse or surviving state registered domestic partner, be subject to the limits of (b)(i)(B) and (c)(ii) of this subsection;
(d) Any parcel of land that is five acres or more but less than twenty acres devoted primarily to agricultural uses, which meet one of the following criteria:
   (i) Has produced a gross income from agricultural uses equivalent to two hundred dollars or more per acre per year for three of the five calendar years preceding the date of application for classification under this chapter;
(ii) Has standing crops with an expectation of harvest within seven years, except as provided in (d)(iii) of this subsection, and a demonstrable investment in the production of those crops equivalent to one hundred dollars or more per acre in the current or previous calendar year. For the purposes of this subsection (2)(d)(ii), "standing crop" means Christmas trees, vineyards, fruit trees, or other perennial crops that: (A) Are planted using agricultural methods normally used in the commercial production of that particular crop; and (B) typically do not produce harvestable quantities in the initial years after planting; or

(iii) Has a standing crop of short rotation hardwoods with an expectation of harvest within fifteen years and a demonstrable investment in the production of those crops equivalent to one hundred dollars or more per acre in the current or previous calendar year;

(e) Any lands including incidental uses as are compatible with agricultural purposes, including wetlands preservation, provided such incidental use does not exceed twenty percent of the classified land and the land on which appurtenances necessary to the production, preparation, or sale of the agricultural products exist in conjunction with the lands producing such products. Agricultural lands also include any parcel of land of one to five acres, which is not contiguous, but which otherwise constitutes an integral part of farming operations being conducted on land qualifying under this section as "farm and agricultural lands";

(f) The land on which housing for employees and the principal place of residence of the farm operator or owner of land classified pursuant to (a) of this subsection is sited if: The housing or residence is on or contiguous to the classified parcel; and the use of the housing or the residence is integral to the use of the classified land for agricultural purposes;

(g) Any land that is used primarily for equestrian related activities for which a charge is made, including, but not limited to, stabling, training, riding, clinics, schooling, shows, or grazing for feed and that otherwise meet the requirements of (a), (b), or (c) of this subsection; or

(h) Any land primarily used for commercial horticultural purposes, including growing seedlings, trees, shrubs, vines, fruits, vegetables, flowers, herbs, and other plants in containers, whether under a structure or not, subject to the following:

(i) The land is not primarily used for the storage, care, or selling of plants purchased from other growers for retail sale;

(ii) If the land is less than five acres and used primarily to grow plants in containers, such land does not qualify as "farm and agricultural land" if more than twenty-five percent of the land used primarily to grow plants in containers is open to the general public for on-site retail sales;

(iii) If more than twenty percent of the land used for growing plants in containers qualifying under this subsection (2)(h) is covered by pavement, none of the paved area is eligible for classification as "farm and agricultural land" under this subsection (2)(h). The eligibility limitations described in this subsection (2)(h)(iii) do not affect the land's eligibility to qualify under (e) of this subsection; and

(iv) If the land classified under this subsection (2)(h), in addition to any contiguous land classified under this subsection, is less than twenty acres, it must meet the applicable income or investment requirements in (b), (c), or (d) of this subsection.
WAC Chapter 458-30 Open Space Taxation Act Rules

WAC 458-30-200 Definitions.

(w) "Farm and agricultural land" means:

(i) Any parcel of land twenty or more acres in size or multiple parcels of land that are contiguous and total twenty or more acres in size when the lands are:
   (A) Primarily used to produce agricultural products for commercial agricultural purposes;
   (B) Enrolled in the federal conservation reserve program or its successor administered by the United States Department of Agriculture; or
   (C) Primarily used for other commercial agricultural purposes as established by rule.

(ii) Any parcel of land or contiguous parcels of land at least five acres, but less than twenty acres in size that are primarily used for commercial agricultural purposes, and produce a gross income equal to:
   (A) One hundred dollars or more in cash per acre per year for three of the five calendar years preceding the date of application for classification when the application was made prior to January 1, 1993; or
   (B) Two hundred dollars or more in cash per acre per year for three of the five calendar years preceding the date of application for classification when the application is made on or after January 1, 1993.

For the purposes of meeting the minimum gross income requirements as described in (w)(ii)(A) and (B) of this subsection for leased classified farm and agricultural land, the owner may use either the cash income received from leasing his or her classified farm and agricultural land, or the cash income received by the lessee for the production of the agricultural product on the owner’s classified farm and agricultural land.

(iii) Any parcel of land or contiguous parcels of land at least five acres, but less than twenty acres in size that are primarily used for commercial agricultural purposes and that have:
   (A) Standing crops with an expectation of harvest within seven years and a demonstrable investment in the production of those crops equivalent to one hundred dollars or more per acre in the current or previous calendar year; or
   (B) Standing crops of short rotation hardwoods with an expectation of harvest within fifteen years and a demonstrable investment in the production of those crops equivalent to one hundred dollars or more per acre in the current or previous calendar year.

For the purposes of meeting the minimum investment requirements as described in (w)(iii)(A) and (B) of this subsection for leased classified farm and agricultural land, the owner may use either the cash income received from leasing his or her classified farm and agricultural land, or the cash income invested by the lessee in the production of the standing crop on the owner’s classified farm and agricultural land.

(iv) Any parcel of land or contiguous parcels of land less than five acres in size that are primarily used for commercial agricultural purposes, and produce a gross income equal to:
   (A) One thousand dollars or more in cash per year for three of the five calendar years preceding the date of application for classification when the application was made prior to January 1, 1993; or
   (B) One thousand five hundred dollars or more in cash per year for three of the five calendar years preceding the date of application for classification when the application is made on or after January 1, 1993.
For the purposes of meeting the minimum gross income requirements as described in (w)(iv)(A) and (B) of this subsection for leased classified farm and agricultural land, the owner may use either the cash income received from leasing his or her classified farm and agricultural land, or the cash income received by the lessee for the production of the agricultural product on the owner’s classified farm and agricultural land.

(v) Farm and agricultural land also includes:

(A) Land on which employee housing or the principal residence of the farm owner or operator is located, if the housing or residence is on or contiguous to a classified farm and agricultural land parcel of twenty acres or more or multiple parcels that are contiguous and total twenty acres or more, and the use of the housing or residence is integral to the use of the classified farm and agricultural land for commercial agricultural purposes;

(B) Land on which appurtenances necessary for the production, preparation, or sale of the agricultural products are situated when the appurtenances are used in conjunction with the land(s) producing agricultural products, such as a machinery maintenance shed or a shipping facility located on farm and agricultural land that produces the products to be shipped;

(C) Land incidentally used for an activity or enterprise that is compatible with commercial agricultural purposes as long as the incidental use does not exceed twenty percent of the classified land. An incidental use of classified farm and agricultural land may include, but is not limited to, wetland preservation, a gravel pit, a farm woodlot, or a produce stand;

(D) A noncontiguous parcel of land from one to five acres in size that constitutes an integral part of the commercial agricultural operation being conducted on land qualifying as "farm and agricultural land." As used in this paragraph, noncontiguous means not adjoining or touching but held by the same ownership as defined in RCW 84.34.020;

(E) Land used primarily for equestrian related activities for which a charge is made including, but not limited to, stabling, training, riding, clinics, schooling, shows, or grazing for feed and that otherwise meets the requirements in (w)(ii), (iii), or (iv) of this subsection; or

(F) Land used primarily for horticultural purposes including growing plants in the ground or in a container, regardless of whether under a structure, such as a greenhouse, subject to the following:

(I) The land is not primarily used for the storage, care, or selling of plants purchased from other growers for retail sale;

(II) If the land is less than five acres and used primarily to grow plants in containers, such land does not qualify as "farm and agricultural land" if more than twenty-five percent of the land used primarily to grow plants in containers is open to the general public for on-site retail sales;

(III) If more than twenty percent of the land used for growing plants in containers is covered by pavement, none of the paved area is eligible for classification as "farm and agricultural land." However, this limitation does not prevent up to twenty percent of the paved area from qualifying as "incidental use" as described in (bb) of this subsection; and

(IV) If the land classified under (w)(v)(F) of this subsection, in addition to any contiguous land classified under (w) of this subsection, is less than twenty acres, it must meet the applicable income or investment requirements described in (w)(ii), (iii), or (iv) of this subsection.
U.S. Food Security Act

Subpart D - Labels: Wetlands Converted to Agricultural Use Before December 23, 1985

514.30 Prior Converted Cropland (PC)

A. Definition

(1) Prior converted cropland (PC) is a converted wetland where the conversion occurred before December 23, 1985; an agricultural commodity had been produced at least once before December 23, 1985; and as of December 23, 1985, the area was capable of producing an agricultural commodity (i.e., did not support woody vegetation and was sufficiently drained to support production of an agricultural commodity). The conversion could include draining, dredging, filling, leveling, or otherwise manipulating (including the removal of woody vegetation or any activity that results in impairing or reducing the flow and circulation of water) the wetland area. In addition, PC meets the following hydrologic criteria:

(i) If the area is not a pothole, playa, or pocosin, inundation is less than 15 consecutive days during the growing season or 10 percent of the growing season, whichever is less, in most years (50 percent chance or more).

(ii) If the area is a pothole, playa, or pocosin, inundation is less than 7 consecutive days and saturation is less than 14 consecutive days during the growing season in most years (50 percent chance or more).

(2) The presence and extent of pothole, playa, and pocosin wetlands in each State will be determined by the State Conservationist with advice from the State Technical Committee.

B. Supporting Documentation

(1) The NRCS Engineering Field Handbook (EFH), Chapter 19, "Hydrology Tools for Wetland Determination;" the 1987 COE Manual; and the approved State mapping conventions are used to determine if the area is inundated for the requisite time. Site conditions must be thoroughly documented, using information such as:

(i) Aerial photographs and FSA slides.

(ii) Flood frequency studies.

(iii) Interviews with the person and other knowledgeable residents of the area.

(iv) Field indicators of surface water such as water marks, drift lines, and drowned or stressed crops.

(v) Stream gauge data.

(2) FSA records may be used to determine current or prior cropping history. In the absence of FSA records, any determination of cropping history should be based on aerial photography, crop expense or receipt records, grain elevator records specific to tract and field, or other suitable documentation that can be tied to the specific field and/or tract under review.

C. Drainage Maintenance and Improvement

(1) Drainage systems or other hydrologic manipulations on PCs may be maintained or improved after December 23, 1985, without loss of eligibility for USDA program benefits. USDA program participants should exercise caution when maintaining drainage systems so that neighboring wetlands are not inadvertently drained.
D. Procedures for Identifying PCs
   (1) Aerial photographs, crop records, and other resources are consulted to determine if the
       area—
       (i) Has hydric soils.
       (ii) Was converted for production of an agricultural commodity before December 23,
            1985.
       (iii) Was capable of producing an agricultural commodity (i.e., did not support woody
            vegetation and was sufficiently drained to support production of an agricultural
       (iv) Fails to meet hydrologic criterion of Farmed Wetland (FW).

USDA
Prior Converted Cropland Exemption
Areas that qualify as Prior Converted Cropland (PC) are exempt from the Swampbuster provision of the Farm
Bill. These areas can be further drained, cropped or manipulated without loss of eligibility for USDA program
benefits. Prior converted croplands that are certified by NRCS are also exempt from wetland regulations
administered by the Army Corps of Engineers and EPA (Section 404 of the Clean Water Act). However, if the land
changes to a non-agricultural use, or is abandoned, according to the criteria established by the Corps and EPA, it
may be regulated under the CWA.

What it Takes for Farmland to Qualify as Prior Converted Cropland
Farmland must meet all of the following criteria for it to be designated as Prior Converted Cropland:
   • Cropped prior to December 23, 1985 with an agricultural commodity (an annually tilled crop such as corn);
   • The land was cleared, drained or otherwise manipulated to make it possible to plant a crop;
   • The land has continued to be used for agricultural purposes (cropping, haying or grazing)
   • The land does not flood or pond for more than 14 days during the growing season

Woodland, pasture and hayland without a history of annual tillage and cropping do not qualify as Prior
Converted Cropland.

Department of Ecology Prior Converted Cropland/Wetlands Information
What are prior converted croplands?
Prior converted croplands (PCCs) are identified for the purpose of implementing the Food Security Act (FSA), and
refers to wetlands that were converted from a non-agricultural use to production of a commodity crop prior to
December 23, 1985. In other words, PCCs are wetlands that were drained, dredged, filled, leveled, or otherwise
manipulated, including the removal of woody vegetation, to enable production of an agricultural commodity.
To be considered a PCC, the area must have had an agricultural commodity planted or produced at least once
prior to December 23, 1985. After 1985 these sites must continue to be in active agricultural use. This means a
commodity crop that requires annual tilling must be produced at least once every five years.
In addition, PCCs must not have standing water present for more than 14 consecutive days during the growing
season. If an agricultural site has standing water for greater than 14 consecutive days it would be considered a
“farmed wetland.” Many farmed areas in valleys flood throughout the winter and would not be considered PCC.
Therefore, it is important to document surface water levels throughout the year (i.e., determining the hydroperiod during the dry season alone is not adequate).

**Conversion of a PCC to a non-agricultural use may be subject to local, state, and federal regulations**

While many PCC areas have been extensively manipulated and drained, and some may no longer be wetlands, a PCC area may meet the federal and state wetland hydrology criterion (refer to the federal [delineation manual and regional supplements](#)). If the land changes to non-agricultural use, or is abandoned, a PCC area may be regulated under federal, state or local laws. Landowners, who intend to develop their land or conduct an activity that precludes use of the land for continued agricultural production, should [contact the Corps, Ecology](#) and the local government ([city/town](#) or [county](#)) to determine if the land meets the criteria for jurisdictional wetlands under applicable laws.

Even if not abandoned, PCC wetlands, like [isolated wetlands](#), that meet the state’s wetland delineation criteria ([Chapter 173-22-035 WAC](#)) are still regulated under the state’s Water Pollution Control Act ([Chapter 90.48 RCW](#)), the Shoreline Management Act, and the Growth Management Act. **Conversion of a PCC wetland to non-agricultural use requires state and local approval.**

**Why regulate PCC wetlands?**

In the past, PCC wetlands were often exempt from federal regulation under the Clean Water Act, based on the belief that these wetlands had been so altered they no longer provided important wetland functions. However, PCC wetlands in Washington perform many of the same important environmental functions as other wetlands, including recharging streams and aquifers, storing flood waters, filtering pollutants from water and providing wildlife habitat. In some cases, PCC wetlands have been significantly altered so they provide only minimal functions. However, in many cases, PCC wetlands provide important hydrologic functions and may provide significant wildlife habitat.

**Guidance on delineating wetlands on agricultural lands**

In 1994, the Departments of Agriculture, Interior, and Army and the EPA entered into a Memorandum of Agreement (MOA), *Guidance on Conducting Wetland Determinations for the Food Security Act (FSA) and Section 404 of the Clean Water Act (CWA).* The MOA was developed to streamline the wetland delineation process on agricultural lands, to promote consistency between the CWA and the FSA, and to provide predictability and simplification for U.S. Department of Agriculture program participants.

In January 2005, both the Natural Resources Conservation Service (NRCS) and Department of the Army withdrew from the MOA. The MOA was replaced with the Corps and NRCS *Joint Guidance on Conducting Wetland Delineations for the Food Security Act of 1985 and Section 404 of the Clean Water Act* (PDF, February 25, 2005). This guidance addresses the responsibility of NRCS for performing wetland delineations for the FSA and the Corps for delineations for CWA Section 404 purposes. Also see [Key Points - February 28, 2005](#) (PDF) for the rationale for withdrawal from the 1994 MOA.

The 2005 MOA also states that the identification of prior converted croplands (PCC) made by NRCS remains valid as long as the area is devoted to an agricultural use. If the land changes to a non-agricultural use, the PCC determination is no longer applicable and a new wetland determination is required for Clean Water Act purposes. Specific guidance will be provided by the Corps in the future addressing how the Corps will treat PCC designations for land that changes from agricultural to non-agricultural use.
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

<table>
<thead>
<tr>
<th>Originator</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>7/3/17</td>
<td>7/11/17</td>
<td>Intro</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>7/25/17</td>
<td>Finance Council; Committee;</td>
</tr>
<tr>
<td>Division Head</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dept. Head</td>
<td></td>
<td>07/03/17</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prosecutor</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Purchasing/Budget</td>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Executive</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

TITLE OF DOCUMENT: 2017 Supplemental Budget Request #8

ATTACHMENTS: Ordinance, Memoranda & Budget Modification Requests

SEPA review required? (  ) Yes ( X ) NO
SEPA review completed? (  ) Yes ( X ) NO
Should Clerk schedule a hearing? (  ) Yes ( X ) NO
Requested Date:

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Supplemental #8 requests funding from the General Fund:
1. To appropriate $1,700 in WSU Extension to fund June 2017 Training class.
From the Election Reserve Fund:
2. To appropriate $4,850 to fund ballot drop boxes.
From the Whatcom County Jail Fund:
3. To appropriate $170,000 to fund Jail transport vehicles.
From the Stormwater Fund:
4. To appropriate $385,000 to fund additional support for Homeowner Incentive Program.
From the Conservation Futures Fund:
5. To appropriate $29,485 to fund Williams I & II PDR Whatcom Land Trust fees.
From the Real Estate Excise Tax I Fund:
6. To appropriate $27,800 to fund Williamson Way building repair and maintenance.
From the Equipment Rental & Revolving Fund:
7. To appropriate $49,259 to fund return of equity for animal control vehicles.
8. To appropriate $170,000 to fund Jail transport vehicles purchase.

COMMITTEE ACTION:

COUNCIL ACTION:

7/11/2017: Introduced 7-0

Related County Contract #: Related File Numbers: Ordinance or Resolution Number:
ORDINANCE NO.
AMENDMENT NO. 8 OF THE 2017 BUDGET

WHEREAS, the 2017-2018 budget was adopted December 6, 2016; and,
WHEREAS, changing circumstances require modifications to the approved 2017-2018
budget; and,
WHEREAS, the modifications to the budget have been assembled here for deliberation by
the Whatcom County Council.
NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the 2017-2018
Whatcom County Budget Ordinance #2016-068 is hereby amended by adding the following
additional amounts to the 2017 budget included therein:

<table>
<thead>
<tr>
<th>Fund</th>
<th>Expenditures</th>
<th>Revenues</th>
<th>Net Effect</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>WSU Extension</td>
<td>1,700</td>
<td>(1,700)</td>
<td>-</td>
</tr>
<tr>
<td>Total General Fund</td>
<td>1,700</td>
<td>(1,700)</td>
<td>-</td>
</tr>
<tr>
<td>Election Reserve Fund</td>
<td>4,850</td>
<td>-</td>
<td>4,850</td>
</tr>
<tr>
<td>Whatcom County Jail Fund</td>
<td>170,000</td>
<td>-</td>
<td>170,000</td>
</tr>
<tr>
<td>Stormwater Fund</td>
<td>385,000</td>
<td>(385,000)</td>
<td>-</td>
</tr>
<tr>
<td>Conservation Futures Fund</td>
<td>29,485</td>
<td>-</td>
<td>29,485</td>
</tr>
<tr>
<td>Real Estate Excise Tax I Fund</td>
<td>27,800</td>
<td>-</td>
<td>27,800</td>
</tr>
<tr>
<td>Equipment Rental &amp; Revolving Fund</td>
<td>219,259</td>
<td>(170,000)</td>
<td>49,259</td>
</tr>
<tr>
<td>Total Supplemental</td>
<td>838,094</td>
<td>(556,700)</td>
<td>281,394</td>
</tr>
</tbody>
</table>

ADOPTED this ___ day of _________________, 2017.

ATTEST:

Dana Brown-Davis, Council Clerk

Barry Buchanan, Chair of the Council

APPROVED AS TO FORM:

Daniel L. Gibson
Civil Deputy Prosecutor

( ) Approved    ( ) Denied

Jack Louws, County Executive

Date: ____________________

I:\BUDGET\SUPPLS\2017_Suppl\Supplemental #8-2017.docx 69
## Summary of the 2017 Supplemental Budget Ordinance No. 8

<table>
<thead>
<tr>
<th>Department/Fund</th>
<th>Description</th>
<th>Increased (Decreased) Expenditure</th>
<th>(Increased) Decreased Revenue</th>
<th>Net Effect to Fund Balance (Increase) Decrease</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>General Fund</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>WSU Extension</td>
<td>To fund June 2017 Training class.</td>
<td>1,700</td>
<td>(1,700)</td>
<td></td>
</tr>
<tr>
<td><strong>Total General Fund</strong></td>
<td></td>
<td>1,700</td>
<td>(1,700)</td>
<td></td>
</tr>
<tr>
<td>Election Reserve Fund</td>
<td>To fund ballot drop boxes.</td>
<td>4,850</td>
<td>-</td>
<td>4,850</td>
</tr>
<tr>
<td>Whatcom County Jail Fund</td>
<td>To fund Jail transport vehicles.</td>
<td>170,000</td>
<td>-</td>
<td>170,000</td>
</tr>
<tr>
<td>Stormwater Fund</td>
<td>To fund additional support for Homeowner Incentive Program.</td>
<td>385,000</td>
<td>(385,000)</td>
<td>-</td>
</tr>
<tr>
<td>Conservation Futures Fund</td>
<td>To fund Williams I &amp; II PDR Whatcom Land Trust fees.</td>
<td>29,485</td>
<td>-</td>
<td>29,485</td>
</tr>
<tr>
<td>Real Estate Excise Tax I Fund</td>
<td>To fund Williamson Way building repair and maintenance.</td>
<td>27,800</td>
<td>-</td>
<td>27,800</td>
</tr>
<tr>
<td>Equipment Rental &amp; Revolving Fund</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Equipment Rental &amp; Revolving Fund</td>
<td>To fund return of equity for animal control vehicles.</td>
<td>49,259</td>
<td>-</td>
<td>49,259</td>
</tr>
<tr>
<td>Equipment Rental &amp; Revolving Fund</td>
<td>To fund Jail transport vehicle purchases.</td>
<td>170,000</td>
<td>(170,000)</td>
<td>-</td>
</tr>
<tr>
<td><strong>Total Equipment Rental &amp; Revolving Fund</strong></td>
<td></td>
<td>219,259</td>
<td>(170,000)</td>
<td>49,259</td>
</tr>
<tr>
<td><strong>Total Supplemental</strong></td>
<td></td>
<td>838,094</td>
<td>(556,700)</td>
<td>281,394</td>
</tr>
</tbody>
</table>
MEMORANDUM

TO:  Jack Louws, County Executive
FROM:  Drew Betz, Director
RE:  Supplemental Budget Request
DATE:  June 27, 2017

Enclosed is the necessary paperwork for a Supplemental Budget Request. This request is to increase the Interdepartmental Agreement between WSU Extension and Health Department.

- **Background and Purpose**
  - Provide a professional development training on facilitation and guiding youth and families.
  - The purpose of this training is to increase the skills of professionals working with parents, youth and families that will decrease and/or prevent substance abuse, violence and other destruction youth behaviors.

- **Funding Amount and Source**
  - $1,700 from Health Department these funds are from the United General Hospital Funds and federal DSHS DBHR SAPT funds.

- **Differences from Previous Contract**  $1,700

Please contact Drew Betz, WSU Whatcom County Extension, at extension 5805, if you have any questions or concerns regarding this request.

Encl.
Supplemental Budget Request

WSU Extension

Supp'l ID # 2322  Fund 1  Cost Center 2003  Originator: D. Betz

Expenditure Type: One-Time  Year 1 2017  Add'l FTE ☐  Add'l Space ☐  Priori ty 1

Name of Request: June 2017 Training

X  [Signature]  6/27/17

Department Head Signature (Required on Hard Copy Submission)  Date

<table>
<thead>
<tr>
<th>Costs: Object</th>
<th>Object Description</th>
<th>Amount Requested</th>
</tr>
</thead>
<tbody>
<tr>
<td>6120</td>
<td>Extra Help</td>
<td>$740</td>
</tr>
<tr>
<td>6230</td>
<td>Social Security</td>
<td>$50</td>
</tr>
<tr>
<td>6259</td>
<td>Worker's Comp-Interfund</td>
<td>$11</td>
</tr>
<tr>
<td>6269</td>
<td>Unemployment-Interfund</td>
<td>$9</td>
</tr>
<tr>
<td>6320</td>
<td>Office &amp; Op Supplies</td>
<td>$160</td>
</tr>
<tr>
<td>6630</td>
<td>Professional Services</td>
<td>$250</td>
</tr>
<tr>
<td>7140</td>
<td>Meeting Refreshment</td>
<td>$480</td>
</tr>
<tr>
<td>8301</td>
<td>Operating Transfer In</td>
<td>(1,700)</td>
</tr>
<tr>
<td>Request Total</td>
<td></td>
<td>$0</td>
</tr>
</tbody>
</table>

1a. Description of request:
Train up to 30 participants at the professional development workshop on June 23, 2017. Purpose of this training is to increase the skills of professionals working with parents, youth and families that will decrease and/or prevent substance abuse, violence and other destructive youth behaviors.

1b. Primary customer:
Professionals who are trained through the WSU Strengthening Families program.

2. Problems to be solved:
The Whatcom County Substance Abuse Prevention Program has identified Family Management Programs for families with middle school aged children as a top priority for funding. We have already signed an Interdepartmental Funds Transfer Agreement with the Health Department for this training.

3a. Options / Advantages:

3b. Cost Savings:

4a. Outcomes:
Up to 30 participants will be trained on June 23.

4b. Measures:
Training will take place and sign in will be mandatory with evaluations to follow.

5a. Other Departments/Agencies
Health Department

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:
Health Department. Interdepartmental Agreement Amendment #4
WHATCOM COUNTY INTERDEPARTMENTAL AGREEMENT AMENDMENT
STRENGTHENING FAMILIES PROGRAM

PARTIES:
Whatcom County Health Department
509 Girard St.
Bellingham, WA 98225

AND CONTRACTOR:
Whatcom County Cooperative Extension
1000 N Forest Street
Bellingham, WA 98225

AMENDMENT NUMBER: 4
AGREEMENT PERIODS:
Original: 09/01/2014 – 08/31/2015
Amendment #1 09/01/2015 – 08/31/2016
Amendment #2 05/01/2016 – 08/31/2016
Amendment #3 09/01/2016 – 08/31/2017
Amendment #4 06/01/2017 – 08/31/2017

THE AGREEMENT IDENTIFIED HEREIN, INCLUDING ANY PREVIOUS AMENDMENTS THERETO, IS HEREBY EXTENDED AS SET FORTH IN THE DESCRIPTION OF THE EXTENSION BELOW BY MUTUAL CONSENT OF ALL PARTIES HERETO

===============================================================================================

DESCRIPTION OF EXTENSION:

1. Add the following activity to the Statement of Work:


   Measures:
   #8: The Contractor will train up to 30 participants at the professional development workshop on June 23, 2017. The purpose of this training is to increase the skills of professionals working with parents, children, youth, and families that will decrease and/or prevent substance abuse, violence and other destructive youth behaviors.

   The County’s purpose for entering into this agreement is to pay expenses associated with registration and supplies necessary to execute the workshop. The Contractor is solely responsible for the conduct and management of this event, for enrolling participants and for ensuring the health and safety of participants.

2. Increase total contract compensation from $70,000 to $71,700 with Public Hospital District 304 dba United General Hospital funds and federal DSHS DBHR SAPT funds. Replace the compensation section of the agreement with the attached.

3. All other terms and conditions remain unchanged.

Health Department

Cooperative Extension

Anne Deacon 4/19/17

Regina Delahunt 4/19/17

Drew Betz 4/18/17
Compensation

The source of funding for this agreement, in an amount not to exceed $71,700, is Whatcom County Chemical Dependency/Mental Health Program, Public Hospital District 304 dba United General Hospital Marijuana Prevention, and Federal DSHS DBHR SAPT (CFDA #333.99.59) Funds. Extension will be reimbursed for expenses incurred in coordinating the “Strengthening Families” program as follows:

<table>
<thead>
<tr>
<th>Allowable Expense</th>
<th>Documentation Required with Invoice</th>
<th>Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Supplies, Printing/Copying, Meeting refreshments</td>
<td>Receipts</td>
<td>$71,700</td>
</tr>
<tr>
<td>Wages, benefits</td>
<td>General Ledger Detail</td>
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</tr>
<tr>
<td>Training, Evaluation</td>
<td>Invoices or Receipts</td>
<td></td>
</tr>
<tr>
<td></td>
<td>TOTAL $71,700</td>
<td></td>
</tr>
</tbody>
</table>

Invoicing

Extension will invoice Health during the agreement period according to the following:

1. Extension shall submit interfund transfer requests by the 15th of the month following each month of service.

2. Extension shall submit an interfund request to:

   HL-BusinessOffice@whatcomcounty.us
   Business Office
   Whatcom County Health Department
   509 Girard St.
   Bellingham, WA  98225

3. Payment by Health will be considered timely if it is made within 30 days of the receipt and acceptance of billing information from Contractor. The County may withhold payment of an invoice if the Contractor submits it more than 30 days after the expiration of this contract.
MEMORANDUM

To: Jack Louws, County Executive

From: Debbie Adelstein, Auditor

Date: June 13, 2017

Re: Supplemental Budget Request

We are hereby requesting additional funding for the Election Division. The Legislature recently passed new criteria for placement of ballot drop boxes throughout the county. To meet the requirements they have outlined we will need to place two new permanent boxes, one in Custer and one in Acme. We are going to continue with using an Election Day only box at Point Roberts. This is an unexpected expense so we are requesting additional funding to provide for these boxes.

In addition to not funding the cost of the boxes, the Legislature did not provide any funding for performing this function – the additional time and expense to have our drop box teams regularly pick up ballots at these locations and return to the Courthouse. Another unfunded mandate from Olympia.

I am, therefore, requesting additional budget authority to cover the additional expense of $4,850.

If you have any questions, please feel free to contact me.

Encl.
Supplemental Budget Request

Status: Pending

Auditor

Suppl ID # 2317 Fund 109 Cost Center 10904 Originator: Debbie Adelstein

Expenditure Type: One-Time Year 1 2017 Add'l FTE Add'l Space Priority 1

Name of Request: Ballot Drop Boxes

X

Department Head Signature (Required on Hard Copy Submission) Date 6/3/17

Costs:

<table>
<thead>
<tr>
<th>Object</th>
<th>Object Description</th>
<th>Amount Requested</th>
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</thead>
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<td>4341.4510</td>
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<td>6699</td>
<td>Other Services-Interfund</td>
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<td>7440-9510</td>
<td>Equipment-Capital Outlay</td>
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<tr>
<td>7410-9510</td>
<td>Equipment-Capital Outlay</td>
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</tr>
<tr>
<td>Request Total</td>
<td></td>
<td>$4,850</td>
</tr>
</tbody>
</table>

1a. Description of request:
Recent Legislation requires additional ballot dropboxes be added to those we currently have in the county. Additional locations include at this time Custer and Acme.

1b. Primary customers:
Voters in and around the Custer or Acme area.

2. Problem to be solved:
The Legislature passed and the Governor signed legislation requiring that we place a ballot drop box in each Census Designated Place that has a post office. The ones we do not currently serve are in Custer and Acme. This request for funding will bring us into compliance with this requirement.

3a. Options / Advantages:
Having a permanent placement seems the best option. We currently have routes that pick up ballots from boxes near the area and will add these stops on those routes.

3b. Cost savings:
There is no cost savings. This will incur the cost of getting the boxes, installing them, maintaining them and serving the pickup routes to get the ballots. This is an unfunded mandate that the Legislature is requiring the county perform.

4a. Outcomes:
More drop boxes in the county.

4b. Measures:
Installation complete.

5a. Other Departments/Agencies:
AS-Facilities to assist with installation.

5b. Name the person in charge of implementation and what they are responsible for:
Mike Russell/Danny Phillips - installation

6. Funding Source:
Election Reserve Fund
WHATCOM COUNTY SHERIFF’S OFFICE

DATE: 05/24/2017

TO: Jack Louws, Whatcom County Executive Council Members, Whatcom County Council

FROM: Sheriff Bill Elfo

RE: Supplemental Budget Request #2306 for Replacement Jail Transport Vehicles

Please allow this memo to serve as a request for approval of the accompanying budget supplemental. This supplemental will provide funding for the replacement of 2 jail transport vehicles. 1 of the vehicles being replaced was actually decommissioned and sold at auction in 2013, the other has been “red-tagged” as a safety hazard due to an unrepairable issue with the braking system, causing it to intermittently lock up when being driven.

The Corrections Transport Deputies are currently using the red-tagged vehicle and a surplus vehicle in order to move offenders within the County. We are unable to use either of them for transports outside of the immediate area due to their reliability. This has resulted in using the large transport truck on a daily basis for the Cooperative Transport System. This is significantly increasing fuel costs and wear and tear on our most expensive transport vehicle.

Due to regulatory changes, we are requesting an upgrade in the replacement vehicles. We are requesting to move to Sprinter high-roofed prisoner transport vans with installed Havis prisoner transport inserts. This will allow us to meet Federal PREA (Prisoner Rape Elimination Act) regulations and meet current NHTSC (National Highway Transport Safety Commission) standards. Public Works reports that standardizing the transport vehicles will also create efficiencies in their division by reducing the number of different replacement parts, and that their experience with the Sprinter vehicles has demonstrated high reliability and reduced repair costs when compare to other transport vehicles.

Chief Wendy Jones is overseeing this process and will be happy to answer any question you may have. Thank you,
Supplemental Budget Request

Status: Pending

Jail

Suppl' ID #: 2306  Fund 118  Cost Center 118000  Originator: Wendy Jones

Expenditure Type: One-Time  Year 1 2017  Add'l FTE □  Add'l Space □  Priority 1

Name of Request: Jail Transport vehicles

X

Department Head Signature (Required on Hard Copy Submission)  Date

Costs:  

<table>
<thead>
<tr>
<th>Object</th>
<th>Object Description</th>
<th>Amount Requested</th>
</tr>
</thead>
<tbody>
<tr>
<td>8351</td>
<td>Operating Transfer Out</td>
<td>$170,000</td>
</tr>
</tbody>
</table>

| Request Total |  $170,000 |

1a. Description of request:
This Supplemental Budget Request is for the replacement and upgrade of 2 Inmate Transport vehicles for the Whatcom County Jail. The vehicles are used to transport offenders between facilities and along the I-5 corridor.

1b. Primary customers:  
Offenders and Transport Deputies.

2. Problem to be solved:
The Corrections Bureau is currently down 2 transport vehicles. Vehicle 8009 was taken off-line and sold at auction in May of 2013. We have been trying to get it replaced since that time. Vehicle 8014 was "red-tagged" as being unsafe to drive due to unrepairable, intermittent, seizing of the braking system, and was scheduled for replacement in 2016. As of this writing, neither vehicle has been replaced.

Due to the loss of these vehicles, we are currently using 2 surplused vehicles that are restricted to use within the County. They are too unreliable to transport offenders over longer distances and do not have the ability to segregate offenders by gender, a requirement of the Prison Rape Elimination Act (PREA). In addition to using questionable vehicles to transport within the County for trips such as medical appointments or transfers to the work center, this limits us to using the large Braun transport on all Cooperative Transport runs. Runs are done 5 days a week, and may travel as far south as Chehalis. This vehicle, while meeting our needs for supervision and gender segregation, is significantly more expensive to run, and as a result of the additional mileage, is shortening its lifespan.

The type of vehicles we have traditionally used (a standard passenger van with a "cage" installed) have brought with them issues in terms in the ability of the Deputies to view into the passenger compartment. This has lead to offenders removing their seatbelts, removing pieces of the vehicle itself to be manufactured into weapon, and acting in an inappropriate manner with members of the opposite gender. This has been done while the Deputy was focused on his/her driving. With the traditional vehicles, there is no ability to record actions taken by the offenders or the Deputies while it is in use.

Additionally, during the process of researching options for replacement, we have also discovered that our traditional transport vehicles do not meet NHTSC (National Highway Transport Safety Commission) standards for seating configuration. The traditional configuration sits offenders too far back in the passenger compartment, creating an increased risk of roll-over.

Given these factors, a thorough evaluation was conducted on replacement options with representation from the Public Works and Corrections. The result of that evaluation is the recommendation for the purchase of 2 Sprinter high-roofed prisoner transfer vans with Havis prisoner transport inserts.

3a. Options / Advantages:

Tuesday, June 27, 2017

Rpt: Rpt Suppl Regular
Supplemental Budget Request

Jail

Supp#ID # 2306  Fund 118  Cost Center 118000  Originator: Wendy Jones

3a. Options / Advantages:
Alternative vehicles were researched, including the following: GM passenger van, Ford Transit, Dodge Ram van and a Ford F450 cab with a custom prisoner transport unit. None of these options provided the necessary driver/passenger visibility, space requirements, or cost effectiveness.

The Sprinter vans are large enough for the insert, and will hold up to 12 offenders. With the requested configuration, offenders can be separated by gender and there is the ability to further segregate offenders who may present some transport challenges. This set up will allow Corrections Deputies to clearly view offenders to make sure seatbelts have been fastened, and provides for video monitoring and recording. The seating configuration follows NHTSC standards and the vehicle should have a life span of, at minimum, 15 years and/or 200,000 miles. The Sprinter vehicles have demonstrated good reliability and very minimal repair issues when compared to a standard passenger van. If the vehicles needs to be replaced in the future, the insert can be pulled and re-installed into a new vehicle. In addition, Public Works advises us that they already have other Sprinter vehicles in the fleet (1 in Facilities, 1 in Parks, 2 in Public Works and one other in the Sheriff's Office). This makes it more efficient when stocking replacement parts.

3b. Cost savings:
Reduction in costs associated with using the Braun transport on all Cooperative Transport runs, including extending the lifespan of the vehicle ($5,000.00 est.).
Per Public Works, reductions in repair costs over the lifetime of the vehicles. Avoidance of civil penalties for failing to follow separation of genders while transporting.

4a. Outcomes:
2 new vehicles, with inserts, will be ordered, made ready and turned over to Corrections during the 4th quarter of 2017.

4b. Measures:
We will work cooperatively with Public Works to make sure the purchase and outfitting of the vehicles begins within 30 days of approval of this supplemental.

5a. Other Departments/Agencies:
Public Works Department will be responsible for the ordering and supervision of the make ready process for both vehicles.

5b. Name the person in charge of implementation and what they are responsible for:
Eric Schlehuber, Public Works Equipment Services Manager. Eric will oversee obtaining the vehicles and the make ready process. Eric has been working with us for approximately 18 months to get the specifications set for these vehicles, and recommends this option (please see attached memo from November 2016).

6. Funding Source:
The Jail Sales tax fund.
REQUESTED ACTION
After researching costs of replacement Prisoner Transport Vans for the below two units which are due for replacement, we are proposing to upgrade these two vehicles from standard 15 “passenger” vans to Mercedes-Benz Sprinter high roofed prisoner transport vans with Havis 12 prisoner transport inserts specifically designed for the intended use for the following reasons:

- The current “passenger” vans do not provide required separation per the Prison Rape Elimination Act (PREA) of the male and female prisoners, juveniles and adults, victims and predators. We have already had one female prisoner groped by a male prisoner because we are unable to provide separation in the current vans. The current contracts with: DOC, WA State Women’s Correctional Facility, Skagit/Island/San Juan Counties and the US Marshal Service contracts all have the PREA requirement for transport of prisoners.
- The new Havis prisoner transport insert provides for the required separation with two separated compartments holding six and five prisoners respectively along with a separated third compartment holding one prisoner. The Havis insert will also be transferable to the next replacement chassis for double the life.
- There is no monitoring system (cameras or microphone/speaker) in the current vans for the Corrections officers to keep tabs on the prisoners other than the small rearview mirror, which is a safety issue for both the prisoners and the Corrections officers.
- Prisoners presently have to be loaded at or behind the mid-line of the 15 passenger vans based on the current configuration. According to the NHTSC to reduce the roll over risk associated with 15 passenger vans prisoners should be loaded as near the front as possible which is accomplished with the new 12 passenger inserts.
- The current 15 passenger van configuration does not allow line of sight to verify seatbelt use and other security concerns. The Havis insert provides for this line of sight in addition to additional lighting, HVAC, bright white backgrounds to increase visibility of prisoner contraband, weapons, etc. and recording and monitoring capabilities. The current 15 passenger vans do not have adequate prisoner property storage locations. The Sprinter van with Havis insert provide an additional two feet of storage space.
- The upgraded diesel Sprinter vans provide increased service longevity/life, increased fuel economy and the ability to re-use and move the prisoner transport insert into the next replacement van. It is anticipated the Sprinter van with insert will have a 15 year life and 200,000+ miles before replacement is needed of the chassis only.
- The County currently has several Sprinter vans that have had very good reliability and very minimal repair issues as compared to a standard “passenger van” with one Sprinter in Facilities, one in Parks, two in Public Works and one in the Sheriff’s office. With this number of Sprinter vans it makes it more efficient and productive to stock parts rather than multiple makes of vehicles.
- Because we are not able to provide the required separation of prisoners in the current vans, the larger prisoner transport vehicle (#900) has needed to be used daily at an additional cost due to its size and fuel economy. This will extend the life of #900 and reduce fuel costs.
Alternative vans were researched and demo’ed (including the current GM passenger van, Ford Transit, Dodge Ram Van and Ford F450 cab & chassis with custom prisoner transport module.) None of these alternatives provided the necessary driver/passenger visibility, space requirements or cost effectiveness. These would all be one-off’s as compared to other van in the ER&R fleet.

<table>
<thead>
<tr>
<th>DEPARTMENT</th>
<th>REPLACE UNIT</th>
<th>YEAR / MAKE / MODEL</th>
<th>EST. MILEAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>CORR</td>
<td>8009</td>
<td>2002 Dodge B3500 15 Passenger Van</td>
<td>176,482</td>
</tr>
<tr>
<td>CORR</td>
<td>8014</td>
<td>2002 Dodge B3500 15 Passenger Van</td>
<td>92,400</td>
</tr>
</tbody>
</table>

**Background and Purpose**

These Corrections Department vehicles were not anticipated to be replaced in the 2016 Equipment Rental and Revolving Capital Equipment budget. The typical costs would be as follows:

<table>
<thead>
<tr>
<th>Item</th>
<th>Qty</th>
<th>Price each</th>
<th>Sales Tax 8.9% ea.</th>
<th>Total for 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016/2017 Mercedes-Benz Sprinter High Roofed Van</td>
<td>2</td>
<td>$48,000.00</td>
<td>$4,272.00</td>
<td>$104,544.00</td>
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<tr>
<td>Havis 12 Prisoner Transport Insert for Sprinter Van</td>
<td>2</td>
<td>$25,000.00</td>
<td>$2,225.00</td>
<td>$54,450.00</td>
</tr>
</tbody>
</table>

**Funding Amount and Source**

This amount was not budgeted during the 2016 budget process. Unit 8009 was budgeted to be replaced in 2014, but was not replaced at that time. Unit 8014 was red-tagged as unsafe to operate due to unrepairable intermittent complications from the braking system seizing. This malfunction created safety concerns; dangerous conditions for employees and inmates; and has already opened the County to claims of legal liability due to a past prisoner injury with the current 15 passenger vans.

Adequate capital budget authority exists from not replacing unit #264 (2003 Kenworth T800B, $325,000), which did not meet current replacement criteria. I am requesting Executive and Council approval to purchase this unit from Mercedes-Benz of Spokane for the price of $47,350.19 each plus 8.9% total sales tax of $8,428.33 for a total amount of $103,128.71.

**Recommendation**

Please approve this request for upgrade for the Corrections Department. Please contact Eric L. Schlehuber at extension 6405 or Caleb ....... , if you have any questions or concerns.

Enclosures
MEMORANDUM

TO: The Honorable Jack Louws, Whatcom County Executive, and Honorable Members of the Whatcom County Council

THROUGH: Jon Hutchings, Public Works Director

FROM: Rob Ney, Special Programs Manager
       Kirk N. Christensen, P.E., Stormwater Supervisor
       Ingrid Enschede, Program Specialist

DATE: June 14, 2017

RE: 2017 Budget Supplemental #2315 for Lake Whatcom Homeowner Incentive Program

Please find attached for approval a supplemental budget request from Public Works Stormwater for continued implementation of the Lake Whatcom Homeowner Incentive Program (HIP).

- **Background and Purpose**
  The HIP is a joint Whatcom County and City of Bellingham program that reduces phosphorus in runoff from developed residential property in the Lake Whatcom watershed to meet Lake Whatcom Total Maximum Daily Load (TMDL) requirements. The 2017-2019 Interlocal Agreement between the City of Bellingham and Whatcom County for the Lake Whatcom Homeowner Incentive Program (contact# 201611031) outlines each jurisdiction’s responsibilities and obligations for the cooperative administration of the HIP through the end of the current 5-Year Work Plan. This supplemental budget request allows Whatcom County to fulfill its obligations as defined in this interlocal agreement.

- **Funding Amount and Source**
  This request has no net impact on the budget or Whatcom County fund balances. Per the terms of the interlocal agreement with the City of Bellingham, the City will reimburse Whatcom County for expenses incurred to manage and implement the HIP above the County’s annual budget of $100,000. This supplemental budget request of $385,000 gives Whatcom County the additional budget authority it needs to implement the HIP in 2017. All expenses incurred through this request will be reimbursed by the City.

Please contact Ingrid Enschede at extension 6229 if you have any questions or concerns regarding this request.

Attachment
1a. Description of request:
Reduce phosphorus in runoff entering Lake Whatcom through the Lake Whatcom Homeowner Incentive Program (HIP). The HIP provides technical assistance and financial reimbursement to install stormwater best management practices on private property in the Lake Whatcom watershed. Whatcom County and the City of Bellingham have an interlocal agreement outlining each jurisdiction’s responsibilities and obligations for the cooperative administration of the HIP. This supplemental budget request allows Whatcom County to fulfill its obligations as defined in the interlocal agreement.

1b. Primary customers:
Owners of developed parcels in the HIP area. Residents of Whatcom County who benefit from improved Lake Whatcom water quality.

2. Problem to be solved:
Lake Whatcom does not meet Washington State dissolved oxygen (DO) level requirements. Low DO in the lake is a result of too much phosphorus and threatens the survival of fish and aquatic life. The United States Environmental Protection Agency (EPA) approved the Lake Whatcom Watershed Total Phosphorus and Bacteria Total Maximum Daily Load study (TMDL) in 2016. Whatcom County is required to meet phosphorus reduction targets established in the TMDL.

3a. Options / Advantages:
Whatcom County works in cooperation with the City of Bellingham and other partners to meet TMDL requirements through the Lake Whatcom Management Program. The HIP is one of many options to meet TMDL requirements. Others include capital improvement projects and regulations. TMDL phosphorus reduction targets can not be met with capital projects and current regulations alone. The HIP reduces phosphorus in runoff from existing development, especially from areas that do not drain through a public right-of-way. Not funding the HIP could result in not being able to meet long-term TMDL requirements.

3b. Cost savings:
The HIP offers cost effective phosphorus reduction from existing development. Best management practices (BMPs) supported through the HIP have been selected to offer good phosphorus reduction per installation cost. Program administration costs are shared between the City of Bellingham and Whatcom County, creating a cost savings for both jurisdictions.

4a. Outcomes:
Stormwater best management practices (BMPs) that reduce phosphorus will be installed on developed parcels annually.

4b. Measures:
BMPs installed through the HIP will be permitted, recorded in a database, and protected with through maintenance agreements. Pounds of phosphorus reduced per year will be quantified for each BMP installed.

5a. Other Departments/Agencies:
This request will allow Whatcom County to implement the HIP as agreed in the 2017-2019 Interlocal Agreement between the City of Bellingham and Whatcom County for the Lake Whatcom Homeowner Incentive Program (contract# 201611031). Without budget authority to implement the HIP, which the City of Bellingham will reimburse per the terms of the interlocal agreement, this joint City-County program will not continue. This request will also allow Whatcom County to fulfill the terms of the 2016 Interlocal Agreement between Whatcom County and the Whatcom Conservation District for Lake Whatcom Homeowner Incentive Program Assistance (contract# 201610015).

5b. Name the person in charge of implementation and what they are responsible for:

Whatcom County: Gary Stoyka, Natural Resources Manager, and Kirk Christensen, Stormwater Manager; responsible for administering the HIP and delegating staff responsibilities.
City of Bellingham: Renee LaCroix, Assistant Director, and Jason Porter, Storm and Surface Water Manager; responsible for administering the HIP and delegating staff responsibilities for the City of Bellingham.
Whatcom Conservation District: George Boggs, Executive Director, Aneka Sweeney, Education Specialist, and Jenny Coe, HIP Coordinator; responsible for providing technical assistance per the terms of the interlocal agreement.

6. Funding Source:
The City of Bellingham will reimburse Whatcom County for amount of this supplemental budget request per the terms of the 2017-2019 Interlocal Agreement between the City of Bellingham and Whatcom County for the Lake Whatcom Homeowner Incentive Program (contract# 201611031).
Memorandum

TO: Honorable Whatcom County Council Members
    Honorable Jack Louws, Whatcom County Executive

Through: Mark Personius, Assistant Director for J.E. Ryan, Director of Planning and Development Services

FROM: Chris Elder, Planner I

DATE: June 26, 2017

SUBJECT: Supplemental Budget request for Williams 2 and Servid Williams Conservation Easements

Introduction
Whatcom County recently purchased agricultural conservation easements on Williams 2 and Servid-Williams PDR applicant properties. In the previous supplemental budget request, staff neglected to include a request to cover baseline documentation fees and easement monitoring fees. This request intends to complete the PDR process on these two properties. Please note that due to the order in which these two easements were enacted, the easements have been named Williams I and Williams II.

Background and Purpose
The Williams I and Williams II conservation easements, located adjacent to the city of Nooksack, represent the seventeenth and eighteenth purchase under the County’s Agricultural Purchase of Development Rights Program. Whatcom Land Trust developed baseline condition reports for each of the two easement areas and is the legally responsible party to monitor and enforce terms of the conservation easements.

Williams I and Williams II PDR Supplemental Budget Request

<table>
<thead>
<tr>
<th>Whatcom Land Trust</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monitoring fund fee</td>
<td>$24,000</td>
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<tr>
<td>Background Documents preparation</td>
<td>$5,485</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$29,485</strong></td>
</tr>
</tbody>
</table>

Whatcom County – Conservation Futures Fund $29,485

Request Summary
This request is consistent with Resolution 2016-029 which authorizes the Executive to enter into a purchase and sale agreement on these properties. Conservation Easements on Williams I and Williams II have been recorded and Whatcom Land Trust is entitled to receive compensation for work completed and ongoing monitoring as described above.

Please contact Chris Elder at (360)778-5932 with any questions or concerns.
Supplemental Budget Request

Planning & Development Services
Planning

Suppl' ID # 2323  Fund 175  Cost Center 17550  Originator: Chris Elder

Expenditure Type: One-Time  Year 1 2017  Add'l FTE  Add'l Space  Priority 1

Name of Request: Williams I & II PDR Whatcom Land Trust Fees

X

6-26-17

Department Head Signature (Required on Hard Copy Submission)  Date

<table>
<thead>
<tr>
<th>Costs:</th>
<th>Object</th>
<th>Object Description</th>
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</tr>
</thead>
<tbody>
<tr>
<td>7320</td>
<td>Land</td>
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</tr>
<tr>
<td>Request Total</td>
<td></td>
<td></td>
<td>$29,485</td>
</tr>
</tbody>
</table>

1a. Description of request:
The proposed budget amendment is for the payment to Whatcom Land Trust for development of baseline conditions report and ongoing easement monitoring on the Williams I & Williams II conservation easements purchased.

1b. Primary customers:
The community at large benefits from the PDR program due to the permanent protection of the land for farming purposes. This area will never be developed with additional housing and will stay in low-service cost status in perpetuity. Multiple benefits to agriculture, wildlife, water quality and stormwater retention are among the benefits for the community.

2. Problem to be solved:
The primary focus of the Purchase of Development Rights Program is to permanently protect prime/productive agricultural land from conversion to non-agricultural uses. This property is prime and is located in an area targeted for agricultural land preservation by the Agricultural Advisory Committee and Purchase of Development Rights Oversight Committee.

3a. Options / Advantages:
The Agricultural Advisory Committee has considered the PDR program an integral component of any overall agricultural protection strategy. The Growth Management Act requires the protection of resource lands. This is one of several efforts the County is making to comply with the state requirement. Zoning and Open Space Taxation are other programs currently employed by Whatcom County to protect agricultural land. TDRs are currently being contemplated. PDR’s are valuable partly because they are the only action currently available for the County to achieve permanent protection on agricultural lands.

3b. Cost savings:
Savings are difficult to quantify. Studies indicate that resource lands are the lowest cost properties for community services. Other savings are based on the benefits of not converting the property to some more intensive use. Water quality degradation, excessive stormwater runoff and increased costs for roads and other service provisions are eliminated when conservation easements establish a permanent agricultural development pattern in a given area. Maintaining a critical mass of viable agricultural land especially land with water rights as this has also helps support the agriculture economy.

4a. Outcomes:
The PDR program originally targeted 10,000 acres for purchase. Since that time the Council endorsed a “Rural Land Study” that has targeted some 25,000 acres of agricultural lands within rural zoned land that they would like to see with additional protection. This additional acreage will require significant increase in funding for the PDR program as well as the development of additional innovative techniques. The addition of this farm to the PDR land base occurred during the month of May 2017.

4b. Measures:

Monday, June 26, 2017  
Rpt: Rpt Suppl Regular
Supplemental Budget Request

The easement on this farm will be purchased with assistance from a Title company through a typical closing process. The successful closing of the easement purchase marks the outcome of this specific request.

5a. Other Departments/Agencies:

This is a joint project which involves the Whatcom Land Trust (on-going monitoring/enforcement responsibilities) and Whatcom County – PDR program administration/funding.

5b. Name the person in charge of implementation and what they are responsible for:

The Whatcom Land Trust will be responsible for the long-term monitoring under the terms of the conditions in the conservation easement and based on the contract that they have with Whatcom County. Gabe Epperson is the Conservation Director.

6. Funding Source:

Conservation Futures Fund
MEMORANDUM

TO: Jack Louws, Whatcom County Executive  
Whatcom County Council

FROM: Tawni Helms, Administrative Coordinator

DATE: June 22, 2017

SUBJECT: Williamson Way Property Repairs and Maintenance

Requested Action:
We are requesting Council consideration and approval of the attached 2017 budget supplemental for maintenance and repair costs associated with the Williamson Way Property.

Background and Purpose:
On May 10, 2017, Whatcom County entered into an interlocal agreement with the Port of Bellingham to receive the real estate services needed to secure a tenant and manage the building located at the Port’s Airport Industrial Park.

After a walk-through of the building a number of items were found in need of repair and maintenance as listed below:

Exterior:
1. Roof, gutters, storm drains and down spouts need to be cleaned. Parking and landscaping needs attention.
2. Repair outside storage unit.
3. Replace and rehang broken door
4. Cap or remove compressor wires
5. Install door sweeps on exterior doors
6. Inspect/repair all garage doors including the missing support on main garage door.

Interior:
1. General and overall cleaning to include carpets,
2. Replace missing door handles and hardware on interior doors
3. Repair bathroom stalls and and dry wall
4. Secure eye was station
5. Remove/out or grind floor bolts re-install baseboard
6. Replace/install threshold between lunch area and hallway
7. Inspect/replace/refill fire extinguishers
8. HVAC/Reznor: change filters, service and inspect
9. Re-lamp interior
10. Inspect and service exhaust fans

Once the repairs are completed, the property will be ready for occupancy.

**Funding Amount and Source:**
We are asking for budget authority to complete these work orders through the Rural Sales Tax; EDI Fund.

Please contact Tawni Helms at extension 5208, if you have any questions or concerns regarding the terms of this agreement.
Supplemental Budget Request

Non-Departmental

Suppl ID # 2320  Fund 326  Cost Center 3262417001  Originator: Tawni Helms

Expenditure Type: One-Time  Year 1 2017  Add'l FTE □  Add'l Space □  Priority 1

Name of Request: Williamson Way Building Maintenance & Repair

Date: 6/30/17

Department Head Signature (Required on Hard Copy Submission)

<table>
<thead>
<tr>
<th>Costs</th>
<th>Object</th>
<th>Object Description</th>
<th>Amount Requested</th>
</tr>
</thead>
<tbody>
<tr>
<td>6190</td>
<td>Direct Billing Rate</td>
<td>$4,500</td>
<td></td>
</tr>
<tr>
<td>6320.2008</td>
<td>Office &amp; Op Supplies</td>
<td>$3,950</td>
<td></td>
</tr>
<tr>
<td>7060</td>
<td>Repairs &amp; Maintenance</td>
<td>$19,350</td>
<td></td>
</tr>
</tbody>
</table>

Request Total: $27,800

1a. Description of request:

Whatcom County is working with the Port of Bellingham to facilitate the rental process of the property located on Williamson Way. After a walk through of the building a number of items were found to be needing attention. This budget supplemental will provide for the repair and maintenance of the following:

Exterior:
Landscaping and parking lot: General clean, mow/weed
Outside lockers/storage units on North side: Clean inside, replace/rehang broken door, cap or remove compressor wires
Roof, gutters, down spouts: Clean
Storm drains: Clean

Interior:
Building: Vacuum, shampoo carpet, mop, dust, and window wash (interior and exterior)
Garage doors: Inspect and repair all overhead doors so that they are in good working condition. Main garage door is missing a support and insulation
Exterior (man) doors: install door sweeps
Interior door: East side – between work area and office – replace door handle/missing hardware
Ceiling tiles: replace/install missing tiles in main shop area
Women’s rest room: Replace/repair rusted stall divider by sink
Women’s rest room: Fix/patch water damage to wall by sink
Secure eye wash station
East work area: Remove/cut/grind floor bolts
Re-install baseboard
Lunch Area (South/east side): Replace/install threshold between lunch area and hallway
Inspect and refill/replace fire extinguishers

Electrical:
HVAC/Reznor: Change filters, service and inspect
General: Re-lamp interior
Replace missing outlet covers
Service exhaust fans

1b. Primary customers:

Whatcom County will benefit from having a tenant in the building which will bring in rental income and

Thursday, June 22, 2017  Rpt: Rpt Suppl Regular
Supplemental Budget Request

Non-Departmental

| Supp't ID # 2320 | Fund 326 | Cost Center 326241700 | Originator: Tawni Helms |

deter vandalism associated with vacant buildings.

2. **Problem to be solved:**
   The building located on Williamson way is in need of repair and maintenance. The building was vacated by Chinook Enterprises on xxxxx and has been sitting vacant since then. As a result the building has attracted some vandalism and also needs some repairs resulting from prior tenant use. Maintenance and minor repairs will be assumed by the new tenant once rented.

3a. **Options / Advantages:**
   Repairs and maintenance of the building are necessary to preserve the building as well as prepare for future occupancy.

3b. **Cost savings:**
   n/a

4a. **Outcomes:**
   After the completion of the repairs and maintenance the Port can solicit and show the building to prospective tenants.

4b. **Measures:**
   A new tenant will occupy the building which will bring in rental income and will detour vandalism commonly attracted to vacant buildings.

5a. **Other Departments/Agencies:**
   Facilities

5b. **Name the person in charge of implementation and what they are responsible for:**
   Mike Russell

6. **Funding Source:**
   REET 1
Supplemental Budget Request

Public Works

Suppl ID # 2271
Fund 501
Cost Center 501100
Originator: Kellie Eiswald

Equipment Services
Expenditure Type: One-Time
Year 1 2017
Add'l FTE □ Add'l Space □ Priority 1

Name of Request: Return of Equity - Animal Control Vehicles

X

Department Head Signature (Required on Hard Copy Submission) 6/27/17

Costs:

<table>
<thead>
<tr>
<th>Object</th>
<th>Object Description</th>
<th>Amount Requested</th>
</tr>
</thead>
<tbody>
<tr>
<td>8351</td>
<td>Operating Transfer Out</td>
<td>$49,259</td>
</tr>
</tbody>
</table>

Request Total $49,259

1a. Description of request:

Return of Equity for the following vehicles:

#6704 - 2008 Chevrolet Silverado
#6705 - 2008 Ford F250
#6706 - 2008 Ford F250

1b. Primary customers:

2. Problem to be solved:

Animal Control vehicle equity needs to be transferred out of ER&R.

3a. Options / Advantages:

No other options. Vehicles have been sold to the Humane Society.

3b. Cost savings:

Reduction of fleet vehicles.

4a. Outcomes:

Ownership of three vehicles were transferred to the Humane Society during the first quarter of 2017.

4b. Measures:

Cash and vehicle titles transferred.

5a. Other Departments/Agencies:

Whatcom County Humane Society.

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

ER&R Fund Balance

Tuesday, June 27, 2017
TO: TAWNI HELMS
ADMINISTRATIVE SUPERVISOR

FROM: KELLIE EISWALD
ADMINISTRATIVE SERVICES FINANCE

DATE: 4/11/2017

RE: ER&R EQUITY ACCOUNT BALANCE AS OF 12/31/16

Equity account balances have been prepared for equipment in the ER&R fleet. Attached is a summary worksheet showing the years activity for each piece of equipment.

Equity account balances are reviewed annually to determine if rental rates are sufficient to meet future equipment replacements.

If you have any questions please contact me at extension 50728.

<table>
<thead>
<tr>
<th>Department</th>
<th>2015 Balance Forward</th>
<th>Increase (Decrease)</th>
<th>2016 Ending Balance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Animal Control</td>
<td>$ 27,161.79</td>
<td>$ 806.38</td>
<td>$ 27,968.17</td>
</tr>
</tbody>
</table>
Animal Control  
Return of Equity

Equity Balance 12/31/2016  \[\$27,968.17\]

<table>
<thead>
<tr>
<th>Equip #</th>
<th>Revenue</th>
<th>Expense</th>
<th>Disposal Proceeds</th>
<th>Profit</th>
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<tbody>
<tr>
<td>6704</td>
<td>$61.00</td>
<td>$(607.28)</td>
<td>$4,900.00</td>
<td>$4,353.72</td>
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<tr>
<td>6705</td>
<td>$722.00</td>
<td>$(929.07)</td>
<td>$9,000.00</td>
<td>$8,792.93</td>
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<tr>
<td>6706</td>
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<td>$(1,820.79)</td>
<td>$8,700.00</td>
<td>$8,143.21</td>
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<td></td>
<td>$2,047.00</td>
<td>$(3,357.14)</td>
<td>$22,600.00</td>
<td>$21,289.86</td>
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</table>

Total Equity  \[\$49,258.03\]
Supplemental Budget Request

Status: Pending

Public Works

<table>
<thead>
<tr>
<th>Supp# ID #</th>
<th>Fund</th>
<th>Cost Center</th>
<th>Originator</th>
</tr>
</thead>
<tbody>
<tr>
<td>2324</td>
<td>501</td>
<td>501100</td>
<td>M Caldwell</td>
</tr>
</tbody>
</table>

Expenditure Type: One-Time  Year 1  2017  Add'l FTE  Add'l Space  Priority 1

Name of Request: Jail Transport Vehicle Purchase

X

Department Head Signature (Required on Hard Copy Submission)  Date: 6/27/17

Costs:

<table>
<thead>
<tr>
<th>Object</th>
<th>Object Description</th>
<th>Amount Requested</th>
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<tbody>
<tr>
<td>7410</td>
<td>Equipment-Capital Outlay</td>
<td>$170,000</td>
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<tr>
<td>8301</td>
<td>Operating Transfer In</td>
<td>($170,000)</td>
</tr>
</tbody>
</table>

Request Total: $0

1a. Description of request:
Companion supplemental to Jail Supplemental ID #2306 to purchase and make-ready two Inmate Transport vehicles

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:
Jail Sales Tax Fund transfer in
**TITLE OF DOCUMENT:** Flood Control Zone District and Subzones 2017 Supplemental Budget Request #3

**ATTACHMENTS:** Resolution, Memoranda and Budget Modification Requests

<table>
<thead>
<tr>
<th>SEPA review required?</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>SEPA review completed?</td>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>

| Should Clerk schedule a hearing? | Yes | No |

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

**Supplemental #3 requests funding from the Flood Control Zone District Fund:**

1. To appropriate $15,000 in Natural Resources to fund legal support services in response to Hirst decision. Funding provided by a transfer from the General Fund.

**COMMITTEE ACTION:**

**BOARD OF SUPERVISORS ACTION:**

7/11/2017: Introduced 7-0 (Council acting as the FCZDBS)

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
RESOLUTION NO. 
(A resolution of the Whatcom County Flood Control Zone District Board of Supervisors)

AMENDMENT NO. 3 OF THE 2017 BUDGET

WHEREAS, the 2017 budget for the Whatcom County Flood Control Zone District and Subzones was adopted November 22, 2016; and,
WHEREAS, changing circumstances require modifications to the approved 2017 budget; and,
WHEREAS, the modifications to the budget have been assembled here for deliberation by the Board of Supervisors,

NOW, THEREFORE, BE IT RESOLVED by the Whatcom County Flood Control Zone District Board of Supervisors that the 2017 budget as approved in Resolution 2016-046 is hereby amended by adding the following additional amounts to the budgets included therein:

<table>
<thead>
<tr>
<th>Fund</th>
<th>Expenditures</th>
<th>Revenues</th>
<th>Net Effect</th>
</tr>
</thead>
<tbody>
<tr>
<td>Flood Control Zone District Fund - Natural Resources</td>
<td>15,000</td>
<td>(15,000)</td>
<td>-</td>
</tr>
<tr>
<td>Total Supplemental</td>
<td>15,000</td>
<td>(15,000)</td>
<td>-</td>
</tr>
</tbody>
</table>

ADOPTED this ____ day of _____________________, 2017

WHATCOM COUNTY FCZD
BOARD OF SUPERVISORS
WHATCOM COUNTY, WASHINGTON

ATTEST:

Dana Brown-Davis, Council Clerk

Barry Buchanan, Chair of the Board of Supervisors

APPROVED AS TO FORM:

Civil Deputy Prosecutor
Supplemental Budget Request

**Public Works**
- Fund: 169
- Cost Center: 169121
- Originator: Gary Stoyka

**Natural Resources**
- Fund: 169
- Cost Center: 169121
- Originator: Gary Stoyka

**Expenditure Type:** One-Time
**Year:** 1 2017
**Add’l FTE:** □
**Add’l Space:** □
**Priority:** 1

**Name of Request:** Hirst Legal Support

**Department Head Signature (Required on Hard Copy Submission):**

X

6/28/17

**Date**

<table>
<thead>
<tr>
<th>Costs:</th>
<th>Object</th>
<th>Object Description</th>
<th>Amount Requested</th>
</tr>
</thead>
<tbody>
<tr>
<td>6630</td>
<td>Professional Services</td>
<td>$15,000</td>
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</tr>
<tr>
<td>8301</td>
<td>Operating Transfer In</td>
<td>($15,000)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Request Total</td>
<td><strong>$0</strong></td>
<td></td>
</tr>
</tbody>
</table>

1a. Description of request:
Legal support services to the Prosecuting Attorney's office for County response to the Hirst Supreme Court Ruling.

1b. Primary customers:
Citizens of rural Whatcom County

2. Problem to be solved:
The Washington State Supreme Court issued a ruling in October 2016 in Whatcom County v. Western Washington Growth Management Hearings Board (WWGMHB)(Hirst) that places severe limits on the use of private domestic wells by development permit applicants as a potable water source. The case has been remanded back to the WWGMHB. Whatcom County is in the process of responding to the court's decision and needs specialized legal advice to do that.

3a. Options / Advantages:
In-house counsel was considered; however, this specialized expertise is not available in-house.

3b. Cost savings:

4a. Outcomes:
Whatcom County will make necessary changes to its comprehensive plan and development regulations that comply with the court's decision and any legislative changes to the applicable law. It is anticipated that these changes will be made by summer 2017.

4b. Measures:
The new development regulations will be accepted by the WWGMHB.

5a. Other Departments/Agencies:
The Prosecuting Attorney's office will manage the outside legal counsel.

5b. Name the person in charge of implementation and what they are responsible for:
Karen Frakes, PA Office will manage the contract with the law firm.

6. Funding Source:
Transfer in from the General Fund as per Council action of June 27, 2017

**Wednesday, June 28, 2017**
<table>
<thead>
<tr>
<th>Fund</th>
<th>Expenditures</th>
<th>Revenues</th>
<th>Fund Balance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Flood Control Zone District Fund - Natural Resources</td>
<td>To fund legal support services in response to Hirst decision. Funding provided by a transfer from the General Fund.</td>
<td>15,000</td>
<td>(15,000)</td>
</tr>
<tr>
<td>Total Supplemental</td>
<td></td>
<td>15,000</td>
<td>(15,000)</td>
</tr>
</tbody>
</table>
**WHATCOM COUNTY COUNCIL AGENDA BILL**

<table>
<thead>
<tr>
<th>CLEARANCES</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Originator: Non Kallunki</td>
<td></td>
<td>7/6/17</td>
<td></td>
<td>7/25/17</td>
<td>Council Committee of the Whole (Executive Session)</td>
</tr>
<tr>
<td>Division Head: Karen S. Goens</td>
<td></td>
<td>7/6/17</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Dept. Head:</td>
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</tr>
<tr>
<td>Prosecutor:</td>
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<tr>
<td>Purchasing/Budget:</td>
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<tr>
<td>Executive:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**TITLE OF DOCUMENT:**
N/A

**ATTACHMENTS:**
None

**SEPA review required?**  ( ) Yes  ( X ) No  Should Clerk schedule a hearing?  ( ) Yes  ( X ) No
**SEPA review completed?**  ( ) Yes  ( X ) No  Requested Date:

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Update on negotiations and strategy planning discussion regarding collective bargaining (per RCW 42.30.140(4)(a)).

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

**Please Note:** Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: [www.co.whatcom.wa.us/council](http://www.co.whatcom.wa.us/council).
Further discussion and Council direction in the matter of negotiations for various project-related easements

Discussion with Chief Civil Deputy Dan Gibson regarding exercise of assigned powers for the purpose of acquiring easements for public projects pursuant to RCW 42.30.110(1)(i)

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES | Initial | Date | Date Received in Council Office | Agenda Date | Assigned to:
Originator: | 7/18/2017 | | | 7/25/2017 | Public Works Com
Division Head: |
Dept. Head: | 7/18/17 |
Prosecutor: |
Purchasing/Budget: |
Executive: |

TITLE OF DOCUMENT:
Presentation on Sustainable Water Resource Management

ATTACHMENTS:
Misc. information

SEPA review required? ( ) Yes ( ) NO
SEPA review completed? ( ) Yes ( ) NO

Should Clerk schedule a hearing? ( ) Yes (X) NO
Requested Date:

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)


COMMITTEE ACTION:

COUNCIL ACTION:

Related County Contract #: | Related File Numbers: | Ordinance or Resolution Number:

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
Sustainable Civil Engineering
• Net Zero
• Low Impact Development (LID)
• LID, LEED, and Living Buildings

NET ZERO
Net Zero Energy + Net Zero Water + Urban Agriculture

We are pleased to present to you additional information about 2020 ENGINEERING that will illustrate the type of low impact or sustainable civil engineering services we can provide on new construction or redevelopment projects.

Established in 1995, 2020 ENGINEERING is an engineering consulting company specializing in the development and implementation of civil engineering designs that utilize the best of today’s conventional engineering practices along with new, emerging and alternative technologies. 2020 has a broad range of public and private engineering design and project management experience applied to low impact site development, and sustainable “deep green” building strategies.

2020’s staff have been involved with the research, planning, and/or design of over 200 sustainable and Low Impact Development (LID) projects in many different areas of the country at residential, commercial, educational, and municipal levels. 2020’s low impact and cost-effective designs include pervious pavements and raingardens for roadways and parking lots, rainwater harvesting systems, urban agriculture, water conservation, and shoreline wetland mitigations that utilize LID techniques.

We look forward to working with you to provide innovative and cost effective low impact and sustainable designs. Please call us at 360-671-2020 if you have any questions or require additional information.

Sincerely,
2020 ENGINEERING, Inc.

Mark S. Buehrer, PE, Director
Example Project

Vancouver Land Bridge
Vancouver, WA

The award-winning Vancouver Land Bridge reconnects historic Fort Vancouver to the city's Columbia River waterfront and helps restore the natural landscape continuum from upland prairie to river edge. A walking and bike path meanders across the bridge through an interpretive landscape of prairie, grassland and forest native plants, a rainwater harvesting system and artworks created by the design team and native artists. 2020 assisted the design team with establishing the project's sustainability guidelines. 2020 also provided the engineering design and construction management for the trail design elements that featured low impact stormwater management and a rainwater harvesting system that uses collected rainwater from the bridge deck to irrigate the native plants. This City of Vancouver / WSDOT project was completed in 2008.

2020 ENGINEERING (2020) is an engineering consulting company specializing in the development and implementation of civil engineering strategies that utilize the best of today's conventional engineering practices along with new, emerging and alternative technologies. Since 1995, 2020 has demonstrated the use many types of sustainable and low impact development (LID) methods on over 200 projects. We have researched, planned, and designed green solutions on LID, LEED, and Living Building Challenge projects around North America for both public and private clients. 2020's water management projects use a wholistic engineering approach that includes the development of options that range from water conservation (to reduce water & wastewater flows) to alternative treatment systems that reduce both capital and operating costs (i.e., appropriate combinations of conventional and natural treatment systems).

PROCESS UTILIZED

Wholistic Engineering. We apply a wholistic engineering approach to all our projects. A wholistic engineering approach is a management method for "problem solving," which involves the comprehensive inclusion of all issues and possible conditions related to the primary task or mission. The challenges facing businesses and communities today involve cross-relationships among many kinds of complex components, such as laws & regulations, social concerns, politics, special interests, economic & environmental issues, technology, and resources. By using the wholistic engineering management approach, we implement a plan that evaluates all potential costs and benefits that are related both directly or indirectly to the project goals.

'Cost of Ownership' Cost Evaluations: 2020 has been involved with many sustainable and low impact projects that often have had "newer" types of methods proposed for the design of certain features. A Cost of Ownership evaluation is a type of Life-Cycle Analysis that evaluates not only the first-cost (capital cost) but also looks at the long-term costs (i.e., operation & maintenance costs, replacement costs) on an annual projected basis that may include intervals of 5 years, 10 years, 25 years, 50 years, and sometime longer design life periods. These evaluations help make decisions easier for those in charge of providing final approvals for project spending as well as budgeting for operation and maintenance expenditures.

Scheduled and flexible meetings and communication: This includes face-to-face and online meetings, email correspondences and the use of our FTP site for posting drawings and other documents for quick and easy reviews and comments.

Experienced Professional Staff: 2020 is recognized as being leaders in the development and implementation of designs that feature "green" sustainable strategies. These proven and cost-effective techniques are seeing much more interest as the need to stretch limited capital and operating dollars has become a critical item for selecting practical engineering solutions that also meet a higher level of environmental protection.
Mark Buehrer, PE, Director, Principal

Mark is the founder and director of 2020 ENGINEERING and is a recognized authority on Sustainable Water Resource Management and Low Impact Development (LID) techniques. He is a registered professional civil engineer, author, and inventor with broad experience in engineering design, construction and project management. Since 1995, 2020 ENGINEERING has been dedicated to providing simple and innovative solutions for the long-term economic and environmental sustainability of local, national and international communities.

Mark conceived and developed the concept of WHOLISTIC ENGINEERING, which provides an integrated “problem solving” approach that considers all issues and possible conditions related to the development of a project, such as: laws & regulations, social concerns, politics, special interests, economic & environmental issues, technology, and resources. 2020’s sustainable and low impact designs include porous pavements and raingardens, rainwater harvesting systems, ecologically based wastewater treatment & water reuse systems (i.e. Living Machines® and Constructed Wetlands), urine diversion and reuse systems, algae microfarms, aquaculture, aquaponics, as well as material recycling and composting facilities.

Mark has provided master planning, engineering design and/or construction management assistance on hundreds of LEED, LID and other sustainable type projects in many parts of the U.S.A. He has also been actively involved with providing review and comments to codes and standards for Low Impact Development and sustainable building practices. This has included papers by the Cascadia Green Building Council titled, Code Barriers to the Living Building Challenge and Towards Net Zero Water (Best Practices Manual); Rainwater Harvesting and Water Reuse draft codes for the Uniform Plumbing Code (UPC) and the International Association of Plumbing and Mechanical Officials (IAPMO); and the coauthored document Rainwater Catchment Design and Installation Standards by the American Rainwater Catchment Systems Association (ARCSA) and the American Society of Plumbing Engineers (ASPE). In 2009 and 2010, Mark served on a committee with the purpose of assisting the Washington State Department of Health in developing greywater reuse rules allowing for outdoor uses of greywater for irrigation. Mark was also on 2003 Working Group for Water Reuse Planning for the State of Washington.


Mark is a founding board member of the International Living Future Institute and served on the Board of Directors for Cascadia Green Building Council. He has been the technical development leader on the “Water Team” for the development of The Living Building User’s Guide and the continued development of The Living Building Challenge Standard, and an instructor for the Living Building Leader certification sessions.

Mark is a frequent speaker at various sustainable and LID conferences and workshops including presentations at the 2013 Living Future Conference in Seattle, the 2011 EcoDistrict Summit in Portland, OR, the 2011 Living Future Conference in Vancouver, BC, the 2010 Water Law In Washington conference held in Seattle, and the 2008 American Rainwater Catchment Systems Association (ARCSA) conference held in Santa Monica, CA. He has over 30 years of civil engineering experience.
PRESENTATIONS AND PUBLICATIONS

Mark Buehrer, PE, Director


Phosphorus, Food, and Our Future, Coauthor, Chapter 6, Phosphorus Recovery and Reuse, to be published by Oxford University Press in 2013


Low Impact Development (LID) Techniques - Sustainable Infrastructure Strategies, Sustainable Communities, APWA 2007 Spring Conference, Everett, WA, April, 2007


Sustainable Infrastructure Strategies Including Low Impact Development (LID) Techniques, LID Workshop, Kittitas County, WA, May, 2006

Sustainable Infrastructure Strategies Including Low Impact Development (LID) Techniques, Kingston, 2005


New Strategies in Stormwater Management Using Permeable Interlocking Concrete Pavements and Other Permeable Pavements, Mutual Materials Workshop, Key Note, Seattle, WA 2004


Sustainability-Low Impact Development Towards a Healthier Future, ASLA Conference, Seattle, WA, 2002

Low Impact Development Example Applications in the Pacific Northwest, LID Workshop, 2002


WHOLISTIC ENGINEERING: Applied to Sustainable Site Design, Ford Motors, Detroit, MI, 2001


Tapping Nature's Purest Water Source - "End of pipe: rain supplies their water" (Seattle Daily Journal of Commerce), 1999, (water resources)

Innovative Water Reuse Options ("Water Reuse and Appropriate Technology", A forum sponsored by the South Puget Environmental Education Clearinghouse (SPEECH)), Seattle, WA, 1999, (water resources)


WHOLISTIC ENGINEERING: Applied to PRT & Dual Mode Transportation The International Conference On Personal Rapid Transit (PRT) & Other Emerging Transportation Systems, the Institute of Intelligent Transportation Systems (IITS), University of Minnesota, 1996, (transportation)

CyberTran: Is there a place for it here? (Seattle Daily Journal of Commerce), Seattle, WA, 1995, (transportation)

Mark authored and presented four papers at the 1995 international Symposium of Public Works & The Human Environment, sponsored by the Washington Chapter of the American Public Works Association (APWA) and the University of Washington Department of Civil Engineering.

WHOLISTIC ENGINEERING: Applied to Water & Wastewater Conservation & Management (water resources)

Please Drive On The Grass: Applications of Reinforced Grass Pavement Sections Using Cellular Confinement (transportation & stormwater management)

Very Light Rail (VLR) Technology-A New, Simple, Safe, Cost-Effective Environmental Solution to Meet Future Transportation Needs (transportation)


* * * * *


2020 ENGINEERING worked as part of an integrated design team alongside the College staff and student to develop design concepts for the new Sustainable Agriculture classroom which is located on Evergreen’s Organic Farm site. 2020 provided design and construction administration services for greywater reuse and LID stormwater management systems as well as fire access, parking, utility, and site design.

Valley View Middle School, Snohomish
Valley View Middle School in Snohomish County has an approximate student body of 1,000 and used the Living Building Challenge Version 2.0 as a design standard for sustainability. 2020 ENGINEERING assisted throughout the design process evaluating the Cost of Ownership of various systems for the new school. Sustainable strategies evaluated included geothermal, photovoltaic cells, wastewater reuse, rainwater harvesting, raingardens, pervious pavements and others. 2020 provided design and construction services for the rainwater harvesting system that uses the non-potable rainwater (reducing the potable water use by 80%).

The Bullitt Center, Seattle
The water pedal of the Living Building Challenge envisions a future whereby all buildings are designed to harvest sufficient water to meet the needs of occupants, while respecting the natural hydrology of the site, the water needs of neighbors, and the ecosystem it inhabits. With this design approach, the Bullitt Foundation’s new office building will have a net-zero water balance and may become the first commercial scale Living Building located in the Pacific Northwest. 2020 ENGINEERING assisted the Bullitt Foundation in meeting the two Water Imperatives of the Living Building Challenge. This integrated design will provide the “closed loop” water system required by Imperative 5 and 6 of the Living Building Challenge which includes a potable rainwater system, no discharge of wastewater, and 100% management of stormwater to mimic historical natural conditions.

Greenfire Campus, Seattle
A new sustainable 4-story office building and separate 6-floor residential building replaced an asphalt parking lot in the heart of Ballard, Washington. 50% of the site was dedicated to urban wildlife habitat, low impact stormwater management, and gardens (pea patch and urban agriculture space). 2020 ENGINEERING’s civil engineering tasks included feasibility studies for potable and non-potable water reuse, design of the stormwater management system, rainwater system, water & fire services, sewer utility connections, site grading, and permitting.

Wilkes Elementary School, Bainbridge Island, WA
2020 ENGINEERING provided planning, design, and construction document service for the school. This included determining what type of on-site wastewater treatment and/or water reuse system was a feasible option both on a first-cost as well as long-term operations cost basis. The civil design included designing a stormwater system that maintained the hydrology to the adjacent wetlands, used pervious concrete pavement for all exposed paved areas, and infiltrated all stormwater events on-site up to and including the 100-year storm event. In addition, the existing school remained operational during construction, so a detailed phasing plan was required to ensure child safety and contractor maneuverability on the 9-acre site.
GREENFIRE CAMPUS
SEATTLE, WA

PROJECT MANAGER
Matt Randall

REFERENCE
Ginger Garff
Johnston Architects
p. 206-523-6150

SERVICES
On-Site: stormwater, water & sewer services, site grading, rainwater harvesting for urban agriculture
Off-Site: Street & sidewalk improvements

A new sustainable 4-story office building and separate 6-floor residential building replaced an asphalt parking lot in the heart of Ballard, Washington. 50% of the site was dedicated to urban wildlife habitat, low impact stormwater management, and gardens (pea patch and urban agriculture space). 2020 ENGINEERING's civil engineering tasks included feasibility studies for potable and non-potable water reuse, design of the stormwater management system, water & fire services, sewer utility connections, site grading, and permitting.

2020 designed the two rainwater harvesting systems for site irrigation. The rainwater from each of the two buildings is collected and stored in two large cisterns to provide irrigation. The project's design goal for using rainwater (non-potable water) is a 100% reduction of city water (potable water) for irrigation purposes.

Total annual irrigation demand = 70,000 gallons (organic food gardens & green roof areas).

The rainwater replaces the use of city potable water for irrigation. With the rainwater harvested and used for irrigation, plus all of the landscape areas and green roofs that retain water (and also consume the water via plant evapotranspiration) there will be much more than 50% of all rainwater falling on the site retained for direct or indirect irrigation purposes. This volume of water is similar to the amount of water retained and/or evaporated when the site was in its historic old-growth treed condition.

Image: Johnston Architects
SAN JUAN COMMUNITY
HOME TRUST
AN AFFORDABLE HOUSING COMMUNITY
FRIDAY HARBOR, SAN JUAN ISLAND, WA

PROJECT MANAGER
Mark Buehrer

PROJECT ENGINEER
Colleen Mitchell

REFERENCE
Richard Hobbs
Project Manager
p. 360.317.5024

SERVICES

Water conservation is a featured priority for this island housing project, a new mixed-income neighborhood incorporating open space and trail design elements into the development. Located in Friday Harbor, San Juan Islands (WA), the 46.5 acre parcel includes 15+ acres to be developed as permanently affordable housing. There will be a total of 120 affordable residences and 120 market rate residences.

High efficiency plumbing fixtures, which can reduce water consumption by 58% compared to standard fixtures, are mandatory for the project. Water conservation goals (reducing the use of potable water) can also be met by using non-potable water sources for certain uses not requiring potable water. This can be accomplished by treating the wastewater on-site to reclaimed water standards or using on-site collected rainwater for non-potable uses for the development. Reclaimed water will be used to flush toilets and irrigate landscapes, further reducing potable water consumption. Using reclaimed water as part of a water conservation program for toilet flushing will significantly reduce potable water demand by an estimated 70%, as compared to a typical Friday Harbor residence.

A Living Machine™ natural wastewater treatment system was selected because of low energy use and its ability to provide high quality non-potable water for on-site uses. The Low Impact Development (LID) approach for providing an environmentally friendly and cost-effective site design include LID stormwater management techniques such as "skinny" streets, pervious pavements and raingardens (bio-infiltration facilities).

Example Living Machine™
ZHOMe
A NET ZERO COMMUNITY
ISSAQUAH, WA

PRINCIPAL IN CHARGE
Mark Buehrer

PROJECT ENGINEER
Colleen Mitchell

REFERENCE
Brad Lijaequist, AICP, LEED-AP
425.837.3448

SERVICES

ZHOMe is the first multifamily, production, zero-energy, carbon neutral community in the United States. ZHOMe is a 10-unit townhouse development that will prove that homes using zero net energy and 60% less water, emit net zero carbon emissions, have clean indoor air and use only low toxicity materials, are possible and scalable to mainstream home production. Aggressive, numeric Benchmarks drive the community’s design, including: Zero Net Energy; Zero Net CO2 Emissions; Water Conservation; Healthy-LowToxic Homes; Deep Green Materials and Low Impact Site Design. ZHOMe was sponsored by the City of Issaquah, and developed and built by Howland Homes, in partnership with: Built Green, King County, Port Blakely Communities, Puget Sound Energy and the Washington State University Energy Program. One goal of the project is to educate and inspire builders, architects, designers, subcontractors and the general public to take action towards sustainable building and healthy living.

2020 ENGINEERING was responsible for meeting two of the project’s Benchmarks. For the Water Conservation Benchmark, the design includes a combination of low flow water fixtures along with rainwater harvesting for toilet flushing and clothes washing. This design met the Benchmark of reducing potable water demand by 60% (compared to the baseline water use of other local homes). The Low Impact Stormwater Runoff Benchmark was achieved with the use of porous pavements and raingardens which provide 100% infiltration of all the stormwater on the site.

Image Courtesy of David Vandervort Architects
The water petal of the Living Building Challenge envisions a future whereby all buildings are designed to harvest sufficient water to meet the needs of occupants, while respecting the natural hydrology of the site, the water needs of neighbors, and the ecosystem it inhabits. With this design approach, the Bullitt Foundation’s new office building has a net-zero water balance and will become the first commercial scale Living Building located in the Pacific Northwest. 2020 ENGINEERING assisted the Bullitt Foundation in meeting the two Water Imperatives of the Living Building Challenge. This integrated design provides the “closed loop” water system required by Imperative 5 and 6 of the Living Building Challenge.

The rainwater falling on a membrane roofing surface is being collected, stored in a cistern, and treated before being pumped to water fixtures to meet the overall water demand. Rainwater collected on-site will supply the building with water for indoor uses and outdoor irrigation. Harvested rainwater is pumped from the cistern, filtered and passed through a ultra-violet disinfection system before reaching the potable fixtures such as bathroom sinks, showers, and kitchenettes. Rainwater intended for non-potable uses (i.e. foam-flush toilets and irrigation) is filtered, but not disinfected, before entering the non-potable water fixtures. Blackwater from the foam-flush toilets, and waterless urinals is treated in basement composting units. The composting units produce a dehydrated, condensed solid. Biosolids may be used as a nutrient rich fertilizer. Greywater is collected in basement holding tanks before treatment. The greywater is treated in a constructed wetland in the building’s 3rd floor green roof area. Following treatment, the treated greywater provides irrigation value and infiltrates into native soils below.
BERTSCHI SCHOOL
SEATTLE, WA

PROJECT MANAGER
Colleen Mitchell

RESEARCH-ENGINEER
Jennifer Allen

REFERENCE
Stan Richardson
Bertschi School
p. 206.442.6857

SERVICES
Living Building Challenge
Net Zero Water design
Rainwater Harvesting
Composting toilets.
Greywater reuse indoor
living wall.
Various LID Techniques.

AWARDS
Design Build with FSC
AGC American General
Contractors Alliant Build
America Award
Sustainable Building
Industry Council

In order to achieve the Living Building Challenge certification, the Bertschi School science building has been designed and constructed to have a net-zero water balance through rainwater harvesting, greywater reuse, composting toilet facilities, and onsite Low Impact Development (LiD) stormwater management strategies (raingardens, green roof and pervious concrete). These civil engineering designs, provided by 2020 ENGINEERING, meet Water Petal Imperatives 5 and 6 of the Living Building Challenge, Version 2.0.

Imperative 5, Net Zero Water, is met by collecting rainwater from the roof, conveying it in a runnel (small drain in classroom floor) to an underground concrete cistern, and storing it prior to treatment. Once permitted, the treated rainwater will be pumped to potable water fixtures within the building. Once the cistern reaches maximum storage capacity (2,500 gallons), the runnel is designed to transport the excess water to a second cistern to be used for irrigation water storage only. This cistern will overflow into an outdoor raingarden. Greywater from the classroom sinks/lavatories will be collected and dispersed to a Living Wall within the ecohouse. Vacuum toilets convey waste to a composting unit in an adjacent closet. A backup connection to the public water supply and sanitary sewer exists for emergency use and for potable needs until the rainwater is permitted for potable use.

Imperative 6, Ecological Water Flow, is met by building a portion of the proposed addition (the ecohouse) with a green roof, utilizing pervious concrete and raingardens, thereby eliminating onsite stormwater runoff. The raingarden, employing natural treatment mechanisms, enhances the stormwater quality before allowing the stormwater to infiltrate into local native soils thereby supporting groundwater recharge and minimizing impacts to the downstream hydrology.
RAINWATER HARVESTING DESIGN:

Valley View Middle School in Snohomish County has an approximate student body of 1000 and used the Living Building Challenge Version 2.0 as a design standard for sustainability. 2020 ENGINEERING assisted throughout the design process evaluating the Cost of Ownership of various systems for the new school. Sustainable strategies evaluated included geothermal, photovoltaic cells, wastewater reuse, rainwater harvesting, raingardens, pervious pavements and others.

2020 ENGINEERING provided the rainwater harvesting system collection design. Rainwater collected from the 80,000+ square foot roof is collected in a series of 32 custom designed stainless steel cisterns, and one large underground vault, which is used for toilet and urinal flushing. The total storage of 100,000 gallons of non-potable rainwater reduces the potable water use by 80%. The rainwater system provides a clean and clear water supply by using a series of screens and filters and ensures that no sediment will damage piping or plumbing fixtures within the building.
VALLEY VIEW MIDDLE SCHOOL
SNOHOMISH, WA

PROJECT MANAGER
Colleen Mitchell

REFERENCE
Tim Jewitt
DYKEMAN Architects
p. 425.259.3161

SERVICES
Living Building Challenge.
Feasibility Study for water and energy systems.
Rainwater harvesting system design.

FEASIBILITY STUDY:
Valley View Middle School in Snohomish County has an approximate student body of 1000 and used the Living Building Challenge Version 2.0 as a design standard for sustainability.

2020 ENGINEERING assisted throughout the design process evaluating the Cost of Ownership of various systems for the proposed school. This Feasibility Study compared conventional “baseline” technologies to their greener counterparts by evaluating the initial capital investment for the technology, the estimated annual operations and maintenance cost, and estimated monthly utility savings over the course of 50 years. Strategies evaluated included geothermal, photovoltaic cells, wastewater reuse, rainwater harvesting, raingardens, pervious pavements, and others.

2020 developed a simple Cost of Ownership process that provided a summary of both “first cost” and “life-cycle costs” that helped the decision makers (i.e., school board members) to make sound economic decisions for the selection of sustainable options that were identified and evaluated by the design team.

ESTIMATED COST OF OWNERSHIP

<table>
<thead>
<tr>
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Forecasted Operating and Maintenance Costs

Scheduled Cost of Ownership

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</table>
WILKES ELEMENTARY SCHOOL
BAINBRIDGE ISLAND, WA

PROJECT MANAGER
Matt Randall

REFERENCE
Nancy Josephson
Bainbridge Island School District
p. 206.885.0535

SERVICES
Living Building Challenge.
LiD Site Design.
On-Site Water Reuse and Wastewater Systems.
Study and Design.
WSSP.

The Captain Charles Wilkes Elementary School replaced an old, outdated elementary school currently used by approximately 300 students and 40 staff members on Bainbridge Island. The new school is a sustainable teaching environment for future generations of Bainbridge Island residents. Additionally, it demonstrates the community’s commitment to the environment, outlines their environmental initiatives, provides economic relief for operations and maintenance, and provides a place of connection for many island residents.

The Wilkes Elementary School used both the Washington Sustainable Schools Protocol (WSSP) as well as the Living Building Challenge (LBC) as design guidelines to help the site and building meet the needs of occupants, while respecting the natural hydrology of the site and the water and energy needs of the neighbors. While the school did not seek to be certified under either program, it sought to meet as many of the imperatives or goals as possible.

2020 ENGINEERING provided planning, design, and construction document service for the school. This included determining what type of on-site wastewater treatment and/or water reuse system was a feasible option both on a first-cost as well as long-term operations cost basis. The civil design included designing a stormwater system that maintained the hydrology to the adjacent wetlands, used pervious concrete pavement for all exposed paved areas, and infiltrated all stormwater events on-site up to and including the 100-year storm event. In addition, the existing school remained operational during construction, so a detailed phasing plan was required to ensure child safety and contractor maneuverability on the 9-acre site.
Located on Bainbridge Island, Islandwood is a 255 acre, non-profit educational resource for the Puget Sound region offering ecologically-based science and humanities day programs in an outdoor setting. The mission of Islandwood is to teach community and environmental stewardship to young people by linking ecology, technology and the arts. This LEED™ Gold project incorporates sustainable design elements throughout the campus to provide a wonderful learning opportunity and living laboratory for sustainable design.

2020 ENGINEERING led the Master Planning, design and state permitting of the ecological wastewater treatment and water re-use systems, composting toilet systems, rainwater harvesting, and assisted in the selection of vermi-composting systems for cafeteria food waste. The "waste"water systems (LOSS) include the use of composting toilets in some buildings, subsurface flow constructed wetlands for some buildings, and a Living Machine™ system at the main center, which treats the wastewater for reuses such as toilet flushing and irrigation. (www.islandwood.org)
Roche Harbor Resort has long been a favorite destination for many travelers exploring the San Juan Islands of Washington State. Located on the northern tip of San Juan Island, the seaside village stands next to the picturesque harbor, and offers some of the most spectacular sunsets in the Pacific Northwest. A unique attraction with continuous exposure to a broad community of people, the goals of the Roche Harbor Village Project have been to expand the residential and commercial development in phases utilizing low impact sustainable development techniques.

**2020 ENGINEERING** as part of the master planning and site design team has responsibility for the civil engineering components of the plat. The plat application includes the planning, conceptual design, and cost estimating for low impact development (LID) site design. This 177 acre, with a new hotel, 277 residential units plus commercial development incorporates Raingardens on each lot, Water Efficient Landscaping, Compost Amended Soil, Porous Surfaces (within lots), Porous Pavements (within right-of-ways), and Rainwater Catchment.
The Firstenburg Community Center is a 75,000sf $20M project of the Vancouver-Clark Parks and Recreation. It was the desire of the Vancouver-Clark Parks and Recreation department to employ as many sustainable features as possible into the building as well as the site. This new community Center includes a rock climbing wall, community classrooms, leisure pools, aerobics and fitness facilities, administrative offices, and other community uses. The site is a 10.4 acre wooded site is located in east Vancouver. The Firstenburg Center received a LEED™ Gold certification from the US Green Building Council.

2020 ENGINEERING was selected by the architect to be the civil engineer and to utilize a sustainable LEED / Low Impact Development (LID) approach in the site and stormwater design. Sustainable Strategies included tree protection and preservation measures, over 100,000sf of porous concrete pavement for both the 270 car parking lot as well as the fire lane, five raingardens to treat the run-off from some areas of impervious asphalt pavement, a curvilinear parking lot layout that preserves many of the healthy mature second growth trees on the site, and several water conservation strategies including the re-use of the pool filter effluent for flushing toilets.
RAINGARDEN EXAMPLE PROJECTS

Spring Street Raingarden Retrofit
FRIDAY HARBOUR, WA

The Spring Street raingarden retrofit project was a joint effort of the Marine Resources Committee (MRC) and the Town of Friday Harbor. MRC members identified that much of the pollution they measured in the marine water intake at their facility near the ferry terminal was largely attributed to the heavily used intersections just uphill from the ferry terminal. 2020 ENGINEERING provided the design and permitting documents for a series of bioretention cells to fit in the existing street rights of way without decreasing parking or pedestrian areas. 2020 designed monitoring ports for sampling to document the treatment provided by the cells. This unique design maximizes treatment area while matching existing grades in a fairly steep intersection. 2020 assisted with the scoping, budget, design, permitting, and construction administration tasks, as well as developed a maintenance plan for the raingarden stormwater treatment facility.

Kingston LID Retrofit Study
KITSAP COUNTY, WA

Kingston is one of the most urbanized unincorporated town centers in Kitsap County with approximately 65% impervious surface area. Much of the development lining Apple Tree Cove was built before stormwater regulations were in place. 2020 worked with Kitsap County's Surface and Stormwater Management Division to assess the entire Kingston area (approximately 157 acres) to identify areas of concern and areas of opportunity for LID stormwater retrofits. Through the process of public meetings, collaborating with other County staff, and professional judgement the retrofits identified were prioritized and narrowed down to a list of 14 projects for which 2020 prepared preliminary designs and cost estimates. This grant funded project is intended to identify opportunities for the County to install simple improvements as a part of their regular maintenance activities as well as to pursue further grant funding for construction. 2020 tasks also included project scoping, scheduling, and public outreach and meetings.
**TITLE OF DOCUMENT:**
Presentation by Unity Care NW

**ATTACHMENTS:**

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)
Presentation by Des Skubi, Unity Care NW

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

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Unity Care NW

Campaign Office
(360) 788-2624
(360) 788-2628
development@unitycarenw.org

Bellingham
Medical & Children's Dental
220 Unity St.
Bellingham, WA 98225
(360) 676-6177

Behavioral Health, Adult Dental,
& Administration
1616 Cornwall Ave., Bellingham 98225
(360) 676-6177

In-House Pharmacy
218 Unity St.
Bellingham, WA 98225
(360) 752-7406

Ferndale
Medical, Dental, Behavioral Health
5616 Third Ave.
Ferndale, WA 98248
(360) 676-6177

Point Roberts
Medical
2030 Benson Road
Point Roberts, WA 98281
(360) 945-2980

UnityCareNW.org
facebook.com/unitycarenw
Why build a new North Whatcom County health center?

- There has been a 74% increase in our number of patients since 2008
- Current Ferndale facilities are maxed out—serving 4,000 patients
- 2,000 north Whatcom County residents utilizing the Bellingham health center need care closer to home
- Current facilities in Ferndale are in separate buildings
- No pharmacy or lab services currently offered in our Ferndale facilities
- Only 50% of low-income residents in North Whatcom County are being served by a Community Health Center

What will this expansion provide?

- Access for 9,500 north Whatcom County residents, while easing capacity issues at our Bellingham sites
- 23,000 square foot health center on Portal Way
- All services in one place: medical, dental, behavioral health, pharmacy, on-site lab
- 64 full-time jobs, boosting the economy
- 2,000 north Whatcom County residents who currently come to the Bellingham health center will have services closer to home
- Largest behavioral health facility in Whatcom County outside Bellingham
What are the issues affecting Whatcom County?

Avoidable ER visits
15% of all emergency room visits in Whatcom County are avoidable.

Lack of access to dental
Dental access is consistently rated as the highest need and least available in Whatcom County.

Increased drug abuse
Opiate-related deaths in Whatcom County have increased by 22% in the last 15 years.

Not enough providers
High ratios of population to providers in Whatcom County have resulted in constrained access to services and have officially designated the County as a Health Provider Shortage Area.

42% of our community is struggling to afford housing, transportation, childcare, food, and healthcare.

Let’s do this together!
Support our new health center, address all of the above needs.

- Pledges for up to 3 years are available
- Naming opportunities for increased visibility
- Contact our Planning and Development Department:
  (360) 788-2624
  (360) 788-2628
  development@ucnw.org
  UnityCareNW.org

Make your pledge today and turn this vision into a reality.
About Us

Who We Are
Unity Care NW is a non-profit, Federally Qualified Community Health Center with 4 locations in Whatcom County, serving 1 in 10 residents annually.

Our Mission
Provide access to high-quality, affordable, primary medical, dental, behavioral health, and pharmacy services for all, regardless of the ability to pay.

Our Plan
Build a New Health Center in North Whatcom County.

Our Commitment
We value accountability for results and the elimination of health disparities. We are committed to increasing the years of healthy life in the people and communities we serve.

<table>
<thead>
<tr>
<th>Action</th>
<th>Outcome</th>
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<tbody>
<tr>
<td>Reduce barriers to care, expand primary health care and dental services, and add a pharmacy and lab.</td>
<td>9,500 north Whatcom County residents will be served in the community in which they live.</td>
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<tr>
<td>Focus on education and prevention to stop the cycle that causes dental disease, move the community from treating urgent/chronic dental conditions towards prevention and maintenance.</td>
<td>Improved lives of patients and families in our community while reducing costs.</td>
</tr>
<tr>
<td>Become an essential partner in north Whatcom County.</td>
<td>Working with community resources to identify other social services needs such as substance abuse and homelessness.</td>
</tr>
</tbody>
</table>
**WHATCOM COUNTY COUNCIL AGENDA BILL**

**CLEARANCES**
- **Originator:**
- **Division Head:**
- **Dept. Head:**
- **Prosecutor:**
- **Purchasing/Budget:**
- **Executive:**

<table>
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<tr>
<th>CLEARANCES</th>
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<th>Agenda Date</th>
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<td>See &quot;Summary&quot; Below</td>
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**TITLE OF DOCUMENT:**
Departmental Updates to Council

**ATTACHMENTS:**

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<th>( ) Yes</th>
<th>( ) NO</th>
<th>Should Clerk schedule a hearing?</th>
<th>( ) Yes</th>
<th>( x ) NO</th>
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<td>( ) Yes</td>
<td>( ) NO</td>
<td>Requested Date:</td>
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**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:**
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_Council Reporting Schedule - 2017_

- 3/7/2017: Finance & Admin Services - HR & Finance / Public Works, Health & Safety - Sheriff's Office
- 4/4/2017: Planning & Development - PDS
- 5/2/2017: Public Works, Health & Safety - Public Defender
- 5/16/2017: Finance & Admin Services - Finance / Public Works, Health & Safety - District Court Probation
- 5/30/2017: Natural Resources - Parks & Recreation / Finance & Admin Services - Prosecuting Attorney
- 6/13/2017: Public Works, Health & Safety - Juvenile Court
- 6/27/2017: Public Works, Health & Safety - Public Works
- 7/11/2017: Finance & Admin Services - Facilities
- 7/25/2017: Public Works, Health & Safety - District Court
- 8/8/2017: Finance & Admin Services - IT
- 9/12/2017: Public Works, Health & Safety - Public Works / Finance & Admin Services - HR/Finance
- 9/26/2017: Planning & Development - PDS
- 10/10/2017: Public Works, Health & Safety - Superior Court
- 10/24/2017: Natural Resources - Parks & Recreation
- 11/21/2017: Finance & Admin Services - Finance
- 12/5/2017: Finance & Admin Services - IT

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: www.co.whatcom.wa.us/council.
**TITLE OF DOCUMENT:**
Pharmaceutical Stewardship discussion

**ATTACHMENTS:**
Memo to County Executive; Pharmaceutical Stewardship Policy Brief; Community Survey; FAQ sheet; Whatcom County Opioid Prevention & Response Plan Overview

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<thead>
<tr>
<th>SEPA review required?</th>
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The Health Department seeks support to move forward with a proposal for a Pharmaceutical Stewardship program in Whatcom County.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

<table>
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<tr>
<th>Related County Contract #:</th>
<th>Related File Numbers:</th>
<th>Ordinance or Resolution Number:</th>
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</thead>
</table>

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Memorandum

TO: JACK LOUWS, COUNTY EXECUTIVE
FROM: Regina Delahunt, Director
DATE: July 13, 2017
RE: Pharmaceutical Stewardship Program presentation to Council Public Works, Health & Safety Committee

The Health Department is seeking support from the County Council to move forward in researching the feasibility of establishing a Pharmaceutical Stewardship Program in Whatcom County.

Whatcom County is experiencing an Opioid addiction crisis, much like other counties in our nation. The Health Department hosted a community-wide forum to address this issue in December of 2014 and has been working with community partners since then to develop and implement a variety of effective programs in response. Efforts have included expansion of Medication Assisted Treatment (MAT), outreach services that engage individuals in addiction treatment, education and awareness activities, overdose death prevention, and pharmaceutical take-back programs to name a few.

Research shows that 80% of people who are addicted to Opiates began their addiction with prescription Opiates. Some additional statistics follow:

1. 30% of Whatcom residents surveyed reported experiencing a situation where they or someone they know personally had medicines taken from them for use or abuse by someone else
2. 73% of teens say prescription pain relievers are easy to get from parents’ medicine cabinets
3. Admissions for Opioid detox have increased more than 75% from 2000 to 2015
4. Fatal overdoses involving Opiates increased 22.8% from 2004 to 2013.

In addition to the public health concerns noted above, the environment has suffered from improper disposal of Opiates:

1. Medicines flushed down the drain flow to wastewater treatment systems, which cannot remove most pharmaceutical compounds
2. 100 pharmaceutical compounds have been detected in surface waters within the United States and 14 detected in Bellingham Bay sediments
3. 26 pharmaceutical compounds have been found in Puget Sound juvenile salmon.
The county Opioid Response Plan, attached here, identifies under Objective 1.3 the goal of consideration of a Pharmaceutical Stewardship program, established by county ordinance. These programs have been implemented in other counties in our state as well as other states. The programs establish a process wherein pharmacies can “take-back” unused prescriptions for proper and safe disposal. The program is funded solely by manufacturers of pharmaceuticals.

The county’s plan aligns with Washington State’s Opioid Response Plan, targeting safe disposal of prescription medications as an important element of a comprehensive plan to address Opiate addiction.

The Public Health Advisory Board offered unanimous support to the Health Department during its May meeting to move forward in researching the feasibility of implementing a Pharmaceutical Stewardship program in Whatcom County. Additionally, the county’s Solid Waste Executive Committee offered its support to this effort, and approved budget for the purchase of expert consultation services. An amount up to $40,000 has been approved for this year and again for the following year.

This effort has the potential to produce an ordinance for consideration by the Council if indicated. Successful programs are operating in other counties and will be used as a model for Whatcom County.
Public Health Concerns with Unused Medicines

Behavioral Health Relevance
- Drug overdose is the leading cause of accidental death in the US. In 2014, there were 18,893 overdose deaths related to prescription pain relievers, and 10,574 over dose deaths related to heroin (46 people daily).11
- Deaths involving opioids increased 31% in WA State with 6,668 deaths from 2002–2013.12
- 4 out 5 heroin users began first with non-medical use of prescription pain relievers
- Over 90% of poisoning deaths in WA State are due to drug overdoses.2
- In Whatcom County, admissions for opioid detoxification increased over 75% from 2000 to 2015.
- In Whatcom County, fatal overdoses involving heroin and/or Rx-type opiates increased 22.8% from 2004 to 2013, 6.7/100,000 to 8.2/100,000, respectively.14
- 73% of teens say prescription pain relievers are easy to get from parents’ medicine cabinets. Nearly 1/2 of young people who inject heroin start by abusing prescription drugs.13
- 30% of Whatcom residents reported experiencing a situation where they or someone they knew personally had medicines taken from them for use or abuse by someone else.15
- Opioids are not the only problem, other prescriptions and over-the-counter medicines are also misused.

Environmental Relevance
- Medicines flushed down the drain flow to wastewater treatment systems, which cannot remove most pharmaceutical compounds. These compounds are in wastewater effluent in Washington State and across the nation and are thus discharged to surface waters.5
- 100 pharmaceutical compounds have been detected in surface waters within the United States and 14 in Bellingham Bay sediments.1,7
- These compounds are taken up by aquatic and marine organisms; 26 pharmaceutical compounds have been found in Puget Sound juvenile salmon.9
- Environmentally-relevant concentrations of pharmaceuticals affect aquatic life. Impacts include changes in embryonic and larval development, reproduction, and cognitive function, an impaired ability to catch prey and avoid predators, and intersex (males producing eggs).3,5,10
- Unused medication is a source of pollution we can control now, whereas upgrading wastewater treatment systems to remove pharmaceuticals requires a significant upgrade in technology.
- Trash disposal is not secure for dangerous drugs. The DEA recommends secure medicine take-back as preferred method of disposal.19

Local Conditions
- The City of Bellingham, City of Ferndale, the Whatcom County Health Department and the Lummi Tribal Health Center finance and manage take-back programs that are very well supported by the community. Over 15,000 lbs. of unused medicines have been collected to date.
- 84% of Whatcom residents report being very or somewhat likely to utilize a convenient medicine take-back location.
- 45% of Whatcom residents report they keep medicines in case they or someone in their household might need.

Local Need
- Take-back options are limited to Bellingham, Ferndale and Lummi. There are no options in other areas of the county or for homebound residents.
- Collection of controlled substances is limited to three law enforcement agencies which are closed evenings and weekends.
- Pharmacies are now allowed to accept controlled substances, but the costs of required witnessed transport and incineration makes this unattainable for local government.
Local Capacity
- The Whatcom County Comprehensive Solid and Hazardous Waste Management Plan specifically lists the continued support and/or enhancement of existing take-back programs.
- There are 34 secure medicine take-back location options in Whatcom County, including 25 retail pharmacies, 2 clinics/hospitals with onsite pharmacies, and 7 law enforcement agencies.

Recent Regulatory Information
- The FDA, DEA, and EPA all recommend medicine take-back programs as the safest disposal method.
- In 2014, the DEA issued their Disposal of Controlled Substances Final Rule, which allows prescribed controlled substances to be accepted for disposal through take-back programs at retail pharmacies, hospitals/clinics with an on-site pharmacy, and law enforcement agencies, mail-back programs and collection events.  
- The DEA standards for leftover prescribed controlled substances are to ensure they are destroyed so they are non-retrievable by those who are addicted.  
- Disposal down the drain or in the garbage does not meet the non-retrievable standard. Secure medicine take-back meets DEA standards.
- Washington State pharmaceutical stewardship bills have been attempted and failed 3 times in 2011, 2012 and 2017.
- In 2012, Alameda County, CA was the first local jurisdiction in the nation to pass a pharmaceutical stewardship ordinance, which was challenged by the pharmaceutical industry and resulted in the U.S. Supreme Court denying the request to hear the case in May, 2015. Since then, King, Snohomish, Tacoma-Pierce, Kitsap Counties and six additional California counties (Marin, San Francisco, San Mateo, Santa Clara, Santa Cruz, and Santa Barbara) have passed similar ordinances. MED-Project, a member association representing more than 350 drug manufacturers is currently working with these counties on program implementation.

Policy Option
A product stewardship policy is a mechanism whereby the product manufacturers take responsibility for reducing the negative impact on the economy, environment and public health that can occur throughout the lifecycle of a product, thereby incorporating full lifecycle costs into the cost of doing business. A pharmaceutical stewardship policy would require the manufacturers of medicines sold in the county to finance and coordinate a medicine return system. Residents cannot be required to pay a fee for this service when purchasing or returning medicines. Medicine producers develop a stewardship plan that meets the performance requirements defined in the proposed regulation. The Whatcom County Health Department will review the plan and oversee the approved program for safety and compliance. The producer-funded program would provide a comprehensive program for all county residents. The cost of a stewardship plan is estimated to be 1¢ per $10 prescription.

Ordinance Details
Several existing local ordinances provide a solid framework from which to base our own ordinance. All details can be modified to reflect the needs of Whatcom County.
- All producers that sell pharmaceuticals in Whatcom County are required to participate, either individually or as a group. They submit and implement a stewardship plan and finance the program, including collection, disposal, public education, and agency oversight costs. A surcharge cannot be added at the point of sale.
- Producer responsibilities include:
  - Convenient, safe, & secure collection meeting all regulatory requirements, including collection at retail pharmacies, hospitals/clinics with an on-site pharmacy, and law enforcement agencies, special collection events, and mail-back options for homebound residents.
  - Secure drug handling procedures per the DEA’s Rule
  - Contacting pharmacies and law enforcement agencies to request participation
  - Public education and outreach
  - Submitting program reports, evaluations, and updates as required
- County staff approve the plan and oversee the program. Annual fees from the producers cover agency costs.
- County responsibilities include:
  - Notify producers
  - Answer questions from stakeholders
  - Update website as timeline progresses
  - Ensure timelines are met and reimbursement is paid
- Participation by pharmacies and law enforcement agencies is voluntary.
- Producers out of compliance may be assessed for penalties.
Resources
King County
Snohomish County
Pharmaceutical Stewardship Overview http://www.snohd.org/Waste/Medicine-Disposal/Pharmaceutical-Stewardship
Whatcom County
Pharmaceutical Product Stewardship Working Group (PPSWG) www.med-project.org

References
5 Ford, AT and PP Fong, 2015. The effects of antidepressants appear to be rapid and at environmentally relevant concentrations. Environmental Toxicology and Chemistry 9999, 1-5.
15 Whatcom County Health Department Drug Storage and Disposal Survey (2016).
Community Medicine Storage and Disposal Survey
Conducted from August to October 2016
625 Respondents
Whatcom County Health Department

Purpose: The Whatcom County Health Department wanted to gain a better understanding of the community’s practice of and attitudes toward storing and disposing of unwanted household medications.

### Age of Respondents
- 70+ years: 4%
- 50-69 years: 40%
- 18-29 years: 17%

### Percent with youth (21 and younger) in the home
- 0-4 years: 13%
- 5-10 years: 16%
- 11-17 years: 17%
- 18-21 years: 9%
- Don’t have youth in my home: 59%

### Personal Medicine Storage Locations
- Bathroom: 60%
- Kitchen: 44%
- Bedroom: 24%
- On counter or table: 9%
- Linen Closet: 7%
- Other: 6%
- Medicine lock box: 4%
- In a locked drawer: 4%

### Other Common Locations:
- Purse
- Backpack
- Workbag
- Personal car
- Desk drawer in home office
- Laundry room
- On top of or inside fridge

### Currently have expired, leftover or unwanted medicines in the home
- 30% of respondents reported experiencing a situation where they or someone they know personally had medicines taken from them for use or abuse by someone else.

### 63% of parents with youth living with them, reported having expired, leftover, or unwanted medicine in the home

- Yes: N=354
- Yes: N=30
- No: N=241
Why are expired or unwanted medicines in your home?  
(Check all that apply)

- Haven't gotten around to getting rid of them: 51%
- Saving them in case I, or a household member need them again: 45%
- Don't know what to do with them: 34%
- Didn't like the side effects or had a negative reaction: 20%
- Doctor gave me new medicines: 17%
- Felt better: 14%
- Doctor said I should stop taking them: 13%
- Waiting for a drug collection day: 13%
- Other: 9%
- Didn't want to take my medicines: 5%
- Leftover from a death of a family member or friend: 4%

Percentage of responses  
N = 376

Of survey participants who do not have a local take back program in their community, the top 3 reasons why expired meds were in the home were:

- 48% Didn't know what to do with them  
- 44% Haven't gotten around to getting rid of them  
- 32% Saving them in case I, or a household member need them again

What do you usually do with medicines you no longer want or need?  (Check all that apply)

- Throw away in the trash as they are: 27%
- Take them to a drop-off bin at a pharmacy: 26%
- Keep at home: 25%
- I don't usually have any left-over medicine: 21%
- Throw away in the trash after mixing with coffee grounds, kitty litter or something similar: 9%
- Flush down the toilet or put down the drain: 9%
- Take them to a drop-off bin at the Police Department: 6%
- Other (please specify): 6%
- Take them to a medicine take-back event: 5%
- Mail them in a pre-paid envelope for disposal: 1%

Percentage of responses

Other Methods:
- Dumped in paint, then disposed of in garbage
- Put them in recycling bins
- Keep because don't know what to do with them
- Crush and flush them
- Keep – no place to dispose of
If there was a convenient location or a free mailer to dispose of unwanted medicines, how likely would you or a household member be to drop off or send in your unused or expired medications?

- Very Likely: 63
- Somewhat Likely: 52
- Somewhat Unlikely: 21
- Very Unlikely: 24
- Don't Know: 6

Of the survey participants who do not have a local take back program in their community, 72% reported Very Likely to use a convenient location for medicine disposal.

Do you think any of the following entities should be responsible for providing safe disposal options (covering costs) for unused or unwanted medicines?

<table>
<thead>
<tr>
<th>Entity</th>
<th>Yes</th>
<th>No</th>
<th>Don't Know</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pharmaceutical companies</td>
<td>81.23%</td>
<td>9.87%</td>
<td>8.90%</td>
</tr>
<tr>
<td>State government</td>
<td>47.20%</td>
<td>30.42%</td>
<td>22.38%</td>
</tr>
<tr>
<td>County or City jurisdictions</td>
<td>46.35%</td>
<td>30.73%</td>
<td>22.92%</td>
</tr>
</tbody>
</table>

Please rank who you think should be primarily responsible for providing safe disposal options (covering costs) for unused or unwanted medicines?

<table>
<thead>
<tr>
<th>Entity</th>
<th>1 – Full Responsibility</th>
<th>2 – Some Responsibility</th>
<th>3 – Little Responsibility</th>
<th>No Responsibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pharmaceutical companies</td>
<td>65.44%</td>
<td>18.08%</td>
<td>7.36%</td>
<td>9.12%</td>
</tr>
<tr>
<td>State government</td>
<td>11.68%</td>
<td>41.28%</td>
<td>21.92%</td>
<td>25.12%</td>
</tr>
<tr>
<td>County or City jurisdictions</td>
<td>11.04%</td>
<td>32.96%</td>
<td>30.56%</td>
<td>25.44%</td>
</tr>
</tbody>
</table>
"I am very concerned about opiate addiction in my community and feel like this is a very big problem that we need to address quickly, pragmatically, compassionately, and with long-term strategies in mind."

**Inconvenience in current system:**
- I went to my pharmacy to return them and they said they wouldn't take them. So I took them to the police department and it was a long, arduous process to dispose of them. This is not convenient at all so it's easier to throw them away, which is a shame, but I don't have the time for that process.
- I think medicine take-back should be convenient and easy as pick up, at pharmacies.
- The only real difficulty is with narcotics - having to take them to the police station is a burden.
- I took outdated or unused medications to the pharmacy but they would not accept controlled substances in their locked bin. The pharmacy told me to take the controlled substances to the police department and I have not made that trip. I still have those controlled substances in my home due to the pharmacy (having) no acceptance of controlled substances.
- When you have prescription pain medication, like oxycodone, it is hard to dispose of. Local pharmacies do not accept them.
- For rural folks it is important to remember being so far from services shifts how you handle medication. Something you might toss/mail/relinquish in an urban setting because your doctor is down the street or a couple miles away you would put aside for if the issue arises again when you know it may be difficult to get to town and have a doctor's appointment, then get to the pharmacy, then back home....This is a lot of coordination for an ill individual.

**For Accessibility and Convenient Collection Methods:**
- Every pharmacy should have a free take-back box.
- Maybe having a drop-off at every pharmacy in the city and other key locations.
- Thanks for doing the survey. This is an important issue. At one point we had 250+ Percocet and Vicodin leftover after my son had several surgeries. I would prefer to take all unused meds back to the pharmacy because it's convenient rather than trying to get to the police on a random, specific day during 9-5 hours.
- A disposal site needs to be convenient, with a variety of hours of operation.
- Safe disposal at physician offices or the hospital would be helpful too.
- All of the pharmacies, doctors' offices, the lab, X-Ray and the hospital should be able to make it easy to dispose of medications. It should become as routine as using our paper recycle bins.
- Would be better if all meds could be turned in at the same location.

**For Education:**
- An easy way must exist to get rid of unwanted medication in a fast and safe way. More education is needed in the community in this matter.
- It is NOT common knowledge where to dispose of expired or unneeded medications! We need safer alternatives to avoid these meds getting into the wrong hands to be sold on the street and potentially harm/kill innocent people!
- I regularly use pharmacy drop off. However, when I was doing outreach not a single person I came into contact with knew about them. I have never seen another person dropping off at a pharmacy. We need to do more education.
- Consumers need to be made aware of the proper way to dispose of medicines and education (is) key in this. People need to be responsible for them and dispose of their medicines appropriately - education and knowledge of how to do this will help.
- I am an RN and there isn't enough education about how to dispose of meds.
- If I knew what the dangers/negative impacts were of throwing medicine in the garbage, then I'd be much more likely to dispose of it differently. I wasn't aware there would be an issue with landfill disposal.
Responsibility

Pharmaceutical Companies Responsibility:
- The pharmaceutical companies absolutely should be held accountable. Essentially, unused medicines are an environmental hazard and the makers should be required to take responsibility for this.
- Pharma. Companies should be fully and solely responsible for disposal. Our tax dollars should NOT be used for this!
- I think pharmaceutical companies are a multi-billionaire profit center that should bear the costs. Because it is health, safety, and water purity issue, I think govt has to be involved.
- I would feel most comfortable dropping off to a pharmacy. Drug companies should have to fund the expense of pharmacists to collect and safely dispose of unwanted pharmaceuticals.
- I think the pharm companies should fully cover proper disposal costs, no support from state and local government is probably not realistic, so I answered "little responsibility" to #11.
- Ultimately I think pharmaceutical companies should be responsible for disposal - but I am not sure how that would be enforced or convenient. As the biggest impact to abuse is in the local community - perhaps the local jurisdiction could ensure it is done and have the pharmaceutical companies fund the service.
- The County Health Department should take the lead on implementing, but the costs should be borne by Pharm(a) or the State.
- Every time a person picks up a prescription, they should also be given a secure mailer to return all unused meds to a setup of locations that are collectively paid for by the drug companies.

Consumer Responsibility:
- The consumer is responsible, but true responsibility only comes after proper education.
- Consumers should dispose of their own medicine. Making it easy for them to do that is good. I had to go to the police department to dispose of pain medicine. I am willing to do that. I gave the pharmacy the other medicines.
- Responsibility for proper disposal should be the consumer, but it would be a good community service for the other entities mentioned to step up and make it easier for the consumer.

Environmental Concerns:
- Very important topic. Meds should not be getting into our water or landfill.
- I believe it's imperative to not have some drugs put into the sewer system as it doesn't get removed and is simply washed into our oceans. With the amount of people here that want to preserve the Salish Sea, there would be money found to properly dispose of drugs so that they did not reach the ocean.
- Let's keep those meds out of Puget Sound!
- I work for a county Social Detox for substance abuse and crisis. We destroy A LOT of medications via a solution called "drug buster" but I'm wondering what happens to the bottle of drug soaked solution when it's full??? We NEED a better, safer way!
- I interned at a wastewater plant and they talked about the effects of flushing meds down the toilet. We can treat the wastewater only so much. It can't be treated if we don't know what has been dumped. Thank you for raising awareness!!
MAILERS

SUPPORT for free mailers:
- Free mailers are a great idea.
- I work in mental health and a lot of my clients have extra meds sitting around. This makes me uncomfortable because I know the potential to abuse them or overdose or for them to be taken advantage of is a real possibility. I am not supposed to handle their meds directly, but if they are agreeable I often take people to the pharmacy to drop them off. It would help to have a more convenient option, such as a mailer. I could carry several in my work bag and have them easily available to clients if needed. Thanks again.
- Free mailing bags of unwanted meds would be the best mode for disposal.
- The elderly, in many cases, have the most meds around and the most difficulty getting out. I think handy disposal around the home is the most practical.

CONCERNS about free mailers:
- In regards to mailing in expired or un-needed medications, I would be concerned that this opens the mail ways to possible theft. Perhaps the envelopes would be recognized and possible pursuit of said drugs would be more inclined to invade mailboxes looking for them.
- I wouldn’t mail them. The post office is unreliable and there’s no guarantee they won’t be intercepted.
- With the mailer idea, I am concerned about theft of the items via the mail. Doesn’t seem secure.

"I appreciate having a safe place to drop off prescriptions that might otherwise get abused by someone or poison the water supply".

Medical Community Concerns:
- Push on the medical community to NOT push prescription, over-the-counter, and other forms of medicines unless absolutely necessary to better/improve health
- Medical providers should also work to decrease over prescribing medications
- Doctors and nurses should also be educating their patients about proper disposal of the unused prescribed medication
- Responsible prescribing by doctors also needs to be addressed.

General Concerns Comments:
- There is a substantial unmet need to provide safe disposal options in Whatcom County. I would definitely use a disposal system if one existed!
- I appreciate having a safe place to drop off prescriptions that might otherwise get abused by someone or poison the water supply.
- It is an ongoing quandary for me because I don’t want to flush them or throw them away but I don’t know what to do with them.
- I would also appreciate being able to drop off pill containers!! And having the labels come off easily!!
- Any chance it will get easier to get rid of controlled substances? They’re a pain to dispose of right now. Thanks for all you do!
- Whoever is making the profit off of the medicine should be responsible for the entire life of the medicine. Our tax dollars do enough cleaning up other people’s messes; we should stop the mess before needing to clean it up.
Pharmaceutical Stewardship Policy
Frequently Asked Questions

Why is safe medicine disposal a public health concern?
Medicine take-back programs provide a secure and environmentally sound way to dispose of leftover and expired medications and are part of a comprehensive approach to preventing prescription drug abuse. About 1/3 of medicines sold to consumers go unused. This can occur due to someone switching medications, recovering from a serious illness, passing away, deciding not to take the medication as directed, or having “as needed” medicines expire before they are used. Storing unwanted or expired medicines in our homes contributes to the epidemic of medicine abuse and preventable poisonings in our communities.

Improper disposal of medicines down the drain adds to pharmaceutical pollution in our freshwater and marine water ecosystems, including Bellingham Bay. Disposing of medicines in the garbage is not safe because the drugs can be found and used by others, even if they are mixed with undesirable materials like coffee grounds or kitty litter. Crushing pills prior to disposal puts the handler at risk of exposure to the drug through skin contact or by breathing in the dust. The FDA, DEA, and EPA all recommend medicine take-back programs as the best method for safe disposal of unused medications.

What about the existing take-back programs in Whatcom County?
Currently, the City of Bellingham, City of Ferndale, the Whatcom County Health Department and the Lummi Tribal Health Center finance and manage take-back programs at a total of 11 locations. These programs are very successful and have collected over 14,000 pounds since 2010; however, collection sites are limited to Bellingham, Ferndale, and Lummi and narcotic pain relievers and other prescribed controlled substances are only accepted at three law enforcement agencies. There is a pressing need for a more comprehensive program that is accessible and convenient for all residents.

How would a Pharmaceutical Stewardship Policy differ from the existing programs?
A Pharmaceutical Stewardship Policy provides sustainable funding from the pharmaceutical producers, which allows for a more comprehensive program, including:

- more participating pharmacies,
- acceptance of controlled substances at pharmacies,
- mail-back options for homebound residents,
- collection events, and
- greater outreach to residents about safe disposal.

Other stakeholders also have important responsibilities: pharmacies and law enforcement offices serve as collection sites; Whatcom County provides oversight and enforcement; consumers deliver the medicines to the program; and multiple stakeholders promote the program.

Why don’t pharmacies currently accept narcotic pain relievers and other prescribed controlled substances?
Current law allows pharmacies to accept narcotic pain relievers and other prescribed controlled substances for safe disposal; however, the special requirements for this waste make it much more expensive to manage than non-controlled substances. Local agencies cannot afford the cost of managing controlled substance waste collected at pharmacies.

Won’t medicine take-back programs increase risks of diversion, particularly through retail pharmacies?
Drug take-back collection programs are designed to reduce the risk of drug diversion that is happening every day in people’s homes. Program operators establish protocols based on DEA regulations to ensure the safe and secure collection, handling, transportation and proper disposal of collected medicine. Take-back collection sites have containers that are locked and securely fastened. Furthermore, pharmacies already have procedures in place to minimize theft and reduce the diversion of medicine being prescribed—even among their own employees.
What about pharmaceutical contaminants entering waterways through human excretion and agricultural runoff? Will take-back programs make a difference?

Pharmaceutical contaminants enter the environment through multiple sources, including human excretion, agricultural runoff from farm animal antibiotics and other medicines, and the improper disposal of unwanted medicine (e.g., flushing and discarding in the trash). However, the exact amount of contamination that each source contributes is unknown. By preventing two of the known pathways – flushing and trash disposal – drug take-back programs are a solution and practical approach that prevents a known source of pollution.

Won’t this policy increase the cost of medication?
The cost of a stewardship plan is estimated to be 1¢ per $10 prescription. For comparison, in 2014 approximately 2.6 million prescriptions were filled in Whatcom County pharmacies, valued at over $133 million (extrapolated from statewide data). Program costs will be incorporated into the producers’ cost of business. Residents cannot be charged a fee when purchasing or disposing of medications. Existing programs in Canada and parts of Europe have not resulted in an increase in the cost of pharmaceuticals for consumers. A similar program in British Columbia cost producers $583,000 (USD) in 2010 to collect more than 87 tons of medication from a population of 4.53 million. Most producers in British Columbia pay less than $2,000 a year to comply with the program.

How are the pharmaceutical companies identified?
This can depend on how the regulation is written. Many existing ordinances include a provision requiring any drug wholesaler that sells any "covered drug" in or into the county to provide a list of producers of covered drugs to the jurisdiction. "Covered drugs" are defined within the regulation and can include prescription, over the counter, and veterinary medications. Wholesalers must update the list as required within the regulation, generally as requested and no more than annually.

In other jurisdictions with existing ordinances, the wholesalers have provided complete lists. The jurisdiction must vet the lists and notify the producers of their requirements. Some jurisdictions have chosen to send a notification to every producer listed and then only those producers that argue they do not sell covered drugs and therefore do not need to participate.

How do we (a small local jurisdiction) make sure they are participating? Who does this?
The submitted stewardship plan(s) will list all producers participating in that plan. Producers may develop and submit their own individual plan, or producers may work together to submit one plan representing many producers. The jurisdiction compares the list of participating producers with the overall list of producers selling drugs within the county, and thereby determines if all producers are participating.

What do we do if they are not compliant? How is it enforced?
This depends on the preferences of the jurisdiction and would be detailed within the regulation. The jurisdiction may be authorized to enforce the requirements of the ordinance against any person or entity, whether it be a producer, group of producers, or wholesaler who is not in compliance. The jurisdiction may issue a written order to assess all costs of enforcement, require an informal administrative conference, and/or prohibit or direct certain conduct. The jurisdiction may impose a civil penalty against a producer or entity, and each day upon which a violation occurs may constitute a separate violation. Furthermore, the jurisdiction may be authorized to pursue civil fines and costs including attorney fees by commencement of civil action independent of and/or as a means of enforcing written orders.

If a pharmaceutical company is not compliant, is there much cost to enforcement?
Again, this depends on how the jurisdiction and its legal department choose to enforce compliance. There are many factors that influence these proceedings and the costs. This would be something for the County to evaluate and decide.
2017 Washington State Interagency Opioid Work Plan

Priority Goals

| GOAL 1: Prevent opioid misuse and abuse. |
| GOAL 2: Treat opioid dependence. |
| GOAL 3: Prevent deaths from overdose. |
| GOAL 4: Use data to monitor and evaluate. |

- Improve prescribing practices.
- Expand access to treatment.
- Distribute naloxone to people who use heroin.
- Optimize and expand data sources.

Whatcom County Opioid Abuse Response Plan Workgroups

- Safety
- Naloxone
- Marketing

State Goal 1: Prevent opioid misuse and abuse.
Addresses multiple goals and strategies identified in the state plan.
State Goal 3: Prevent deaths from overdose.
STRATEGIES

SAFETY
State Goal: Prevent opioid misuse and abuse.

Objective 1.1: Create a "Medicine Inventory tool" that Whatcom County residents can use to monitor and track their medications.

Objective 1.2: Acquire and distribute medicine lock bags/boxes to Whatcom County residents.

Objective 1.3: Convene stakeholders that will work to research and review potential for a local Stewardship Ordinance (reverse-distributor process for drug disposal).

Objective 1.4: Increase public awareness through appropriate messaging, including:
   a) Secure your medications (lock them up)
   b) Monitor your medications
   c) Properly dispose of unwanted, unneeded medications (promote Take Back sites)

MARKETING
Addresses multiple goals and strategies identified in the state plan.

Objective 2.1: Coordinate efforts between workgroups to deliver a comprehensive marketing plan.

Objective 2.2: Increase public awareness through appropriate messaging, including:
   a) Increase the awareness of harms of prescription drug abuse, as well as prevalence of abuse.
   b) Reduce stigma around addictions while increasing awareness that prescription drugs can lead to addiction (i.e., it can happen to anyone).
   c) Promote appropriate use of prescription drugs, as well as alternatives to pain management.
   d) Promote the importance of adults talking to children about the harms of using medications inappropriately, or medications not prescribed to them.

NALOXONE
State Goal: Prevent deaths from overdose.

Objective 3.1: Develop Naloxone policy standards for agencies to adopt and encourage securing kits.

Objective 3.2: Create an inventory of Naloxone carriers/distributors.

Objective 3.3: Identify access gaps to Naloxone in the county.

Objective 3.4: Recruit additional pharmacies to carry Naloxone for public access.

Objective 3.5: Secure Naloxone for time-limited distribution.

Objective 3.6: Increase public awareness through appropriate messaging, including:
   a) Promote the Good Samaritan Law.
   b) Educate about proper Naloxone use and access.

Workgroups will continue to refine their action plans through the planning and implementation process, and will be able to scale efforts as resources are available.

We acknowledge there are many other agencies, programs, and services that are working on reducing issues associated with opioid abuse. This is not an exhaustive list of efforts in Whatcom County, but does represent some collaborative work being coordinated to establish a collective impact. If you would like more information, contact the Whatcom County Health Department at 360-778-6002.
**TITLE OF DOCUMENT:**
Ordinance adopting amendments to Whatcom County Code Title 20 (Zoning), relating to the waiver of spacing requirements between marijuana production facilities and community centers in the Rural, Agriculture, and Rural Forestry districts, and amending the definition of community center.

**ATTACHMENTS:**
- Staff Memorandum
- Draft Ordinance
- Staff Report
- Application
- Planning Commission Minutes

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:**
(If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Ordinance adopting amendments to Whatcom County Code Title 20 (Zoning), relating to the waiver of spacing requirements between marijuana production facilities and community centers in the Rural, Agriculture, and Rural Forestry districts, and amending the definition of community center.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**
7/11/2017: Introduced 7-0

**Related County Contract #:**
PLN2017-00002

**Related File Numbers:**

**Ordinance or Resolution Number:**

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
Memorandum

TO: The Honorable Jack Louws, Whatcom County Executive
    The Honorable Whatcom County Council

FROM: Gary Davis, AICP, Senior Planner

THROUGH: Mark Personius, AICP, Assistant Director

DATE: June 21, 2017

SUBJECT: Zoning Code Amendments – Marijuana Production Facility Spacing

This proposal, scheduled for discussion by the Planning and Development Committee on July 11, 2017, is to amend Whatcom County Code Title 20 Zoning to allow a waiver of the required 1,000-foot distance between a marijuana production facility and a community center with a written agreement from that center, in the Rural (R), Agriculture (Ag), and Rural Forestry (RF) districts, and to amend the definition of “community center” to clarify that it includes facilities used for religious purposes (see attached staff report).

At the end of its June 8, 2017 public hearing, the Planning Commission voted 4-1 in favor of recommending approval (see attached minutes). Because at least five votes are needed to make a recommendation, this application is being forwarded without a recommendation or findings from the Planning Commission.

Attachments:
Draft Ordinance, Proposed Amendments
Staff Report
Application
Planning Commission Minutes, June 8, 2017
ORDINANCE NO. ______________

ADOPTING AMENDMENTS TO WHATCOM COUNTY CODE TITLE 20 ZONING, RELATING TO THE WAIVER OF SPACING REQUIREMENTS BETWEEN MARIJUANA PRODUCTION FACILITIES AND COMMUNITY CENTERS IN THE RURAL, AGRICULTURE, AND RURAL FORESTRY DISTRICTS, AND AMENDING THE DEFINITION OF COMMUNITY CENTER

WHEREAS, the applicant has proposed amendments to Whatcom County Code Title 20 Zoning; and

WHEREAS, The Whatcom County Council reviewed and considered Planning Commission recommendations, staff recommendations, and public comments on the proposed amendments; and

WHEREAS, The County Council hereby adopts the following findings of fact:

FINDINGS OF FACT

1. The applicant has submitted an application for amendments to WCC Title 20 Zoning to list commercial kennels as a conditional use in the Agriculture zoning district.

2. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on June 13, 2017.

3. Notice of the subject amendment was submitted to the Washington State Department of Commerce on April 25, 2017.


5. The Planning Commission held a public hearing on the proposed amendments on June 8, 2017.

Page 1 of 2
6. Comprehensive Plan Policy 7K-1 supports small and cottage businesses in rural areas that minimally impact productive agricultural, forest, or mineral resource land.

7. Comprehensive Plan Policy 2FF-3 is to ensure that rural business operations do not adversely impact adjacent residential, agricultural or forest land, or compromise water quality and quantity.

CONCLUSIONS

1. The amendments to the zoning code are in the public interest.

2. The amendments are consistent with the Whatcom County Comprehensive Plan.

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

Section 1. Amendments to the Whatcom County Code are hereby adopted as shown on Exhibit A.

ADOPTED this ______ day of ____________, 2017.

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

ATTEST:

______________________________  ________________________________
Dana Brown-Davis, Council Clerk        Barry Buchanan, Chairperson

APPROVED as to form:

______________________________  ________________________________
Civil Deputy Prosecutor            Jack Louws, Executive

( ) Approved     ( ) Denied

______________________________
Date: _______________________

Page 2 of 2
I. BACKGROUND INFORMATION

File # PLN2017-00002

File Name: Title 20 Zoning Code Amendments – Marijuana Spacing

Applicant: Seth Stromme

Summary of Request: Amend Whatcom County Code Title 20 Zoning to allow a waiver of the required 1,000-foot distance between a marijuana production facility and a community center with a written agreement from that center, in the Rural (R), Agriculture (Ag), and Rural Forestry (RF) districts, and to amend the definition of “community center” to clarify that it includes facilities used for religious purposes.

Location: County-wide.

Staff Recommendation: Approval, subject to a written agreement that would give community centers the ability to maintain or waive the zoning code’s restriction of marijuana production within 1,000 feet of a community center.

History
In 2015 Whatcom County added provisions for marijuana production and processing facilities in the Rural (R), Agriculture (Ag), and Rural Forestry (RF) zoning districts. These provisions included a 300-foot minimum separation between production facilities and residences, and a 1,000-foot minimum separation from community centers. The 300-foot separation from residences can be waived with a written agreement between the owner of the production facility and the owner(s) of the residences, but the code currently allows for no such waiver from the 1,000-foot community center separation.

The applicant intends to build a marijuana production facility that would be located within 1,000 feet of a church, which is included in the zoning code’s definition of a community center (WCC 20.97.070). The applicant submitted a suggested zoning code amendment per WCC 20.90.040(4) that would allow a waiver of the 1,000-foot spacing requirement with a written agreement between the owner of the
processing facility and the community center. The County Council granted the applicant’s request that the zoning code text amendment be placed on the 2017 docket and that the application fee be waived.

II. ZONING CODE AMENDMENT

Marijuana production facility¹ is listed as an administrative approval use in the Rural (R) zone (WCC 20.36.137), and as a permitted use in the Agriculture (Ag) and Rural Forestry (RF) zones (WCC 20.40.059 and 20.42.070, respectively). The separation requirements between production facilities and residences (300 feet) and community centers (1,000 feet) are contained in the code chapters pertaining to those zoning districts, and in the setback provisions of Chapter 20.80 Supplementary Requirements.

The attached draft amendment would change both the zoning district chapters and the supplementary requirements, adding a provision to waive of the 1,000-foot community center separation if a notarized written agreement with the representatives of the community center, similar to the current allowance to waive the 300-foot separation from residences. Approval of the amendment has the potential to allow marijuana production facilities in more locations that would be allowed currently, but only with the written approval of the affected community center.

The zoning code’s current definition of “community center” includes churches, but PDS staff proposes clarifying the definition by adding “religious” to the listed purposes of the community center use. This amendment is intended to reduce the potential for differing interpretations of the community center definition.

III. COMPREHENSIVE PLAN EVALUATION

Whatcom County Comprehensive Plan goals and policies that are applicable to the proposed amendments are listed below:

Goal 2DD: Retain the character and lifestyle of rural Whatcom County.

Policy 2DD-2: Protect the character of the rural area through the County’s development regulations ...

¹ Per WCC 20.97.227, marijuana production means a facility licensed by the state Liquor and Cannabis Board to produce, harvest, trim, dry, cure, and package marijuana, and sell marijuana at wholesale to state-licensed marijuana processors and other state-licensed marijuana producers. By contrast, a marijuana processing facility processes marijuana into useable marijuana, marijuana concentrates, and marijuana-infused products, package and label useable marijuana and marijuana-infused products for sale in retail outlets, and sells useable marijuana and marijuana-infused products at wholesale to marijuana retailers (WCC 20.97.226). Marijuana processing facilities are administrative uses in the R zone and accessory uses in the Ag and RF zones, and may only be permitted as accessory to marijuana production facilities, therefore the separation requirements apply to both marijuana production and processing facilities.
Goal 2FF: Provide employment opportunities in the rural parts of Whatcom County.

Policy 2FF-1: Support small businesses, cottage industries, home occupations, resource-based, tourist, recreational, and other appropriate industries in the rural areas of Whatcom County. New rural commercial and industrial uses that are more intensive than those permitted within rural zones as home occupations or cottage industries should be located within designated Rural Communities and Rural Business areas.

Policy 2FF-3: Ensure that business operations do not adversely impact adjacent residential, agricultural or forest land, or compromise water quality and quantity.

Goal 7K: Enable a geographic balance for economic growth within the capacities of the county's natural resources, natural systems, public services, and public facilities.

Policy 7K-4: Consider establishing more resource and tourism based recreational, commercial, and industrial uses to create economic opportunity in the rural areas of the county.

Policy 7K-7: Support efforts and/or organizations trying to achieve agricultural diversity such as:
- niche markets for local products.

Goal 8B: Maintain and enhance Whatcom County's agricultural products industry as a long-term and sustainable industry.

Policy 8B-3: Support agricultural product processing facilities through appropriate planning, zoning, and land use regulations.

The subject amendment is consistent with the above referenced Comprehensive Plan goals that direct the County to promote new employment opportunities while adopting appropriate development regulations that retain the character and lifestyle of rural Whatcom County.

IV. PROPOSED FINDINGS OF FACT AND REASONS FOR ACTION

Staff recommends the Planning Commission adopt the following findings of fact and reasons for action:

1. The applicant has submitted an application for amendments to WCC Title 20 Zoning to list commercial kennels as a conditional use in the Agriculture zoning district.

2. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on May ___, 2017.
3. Notice of the subject amendment was submitted to the Washington State Department of Commerce on April 25, 2017.


5. The Planning Commission held a public hearing on the proposed amendments on June 8, 2017.

6. Comprehensive Plan Policy 7K-1 supports small and cottage businesses in rural areas that minimally impact productive agricultural, forest, or mineral resource land.

7. Comprehensive Plan Policy 2FF-3 is to ensure that rural business operations do not adversely impact adjacent residential, agricultural or forest land, or compromise water quality and quantity.

V. PROPOSED CONCLUSIONS

1. The amendments to the zoning code are in the public interest.

2. The amendments are consistent with the Whatcom County Comprehensive Plan.

VI. RECOMMENDATION

Planning and Development Services recommends that the Planning Commission forward the proposed amendments to the County Council with a recommendation of approval, provided the proposed waiver of the separation requirement is subject to a written agreement that would give community centers the ability to prohibit marijuana production within 1,000 feet.

ATTACHMENTS

A. Exhibit A: Draft zoning code amendments

B. Application
EXHIBIT A

Chapter 20.36
RURAL (R) DISTRICT

20.36.130 Administrative Approval Uses

.137 Marijuana production facility; provided, that in addition to the criteria found in WCC 20.80.690 through 20.80.694:

(1) The facility shall not be located within 1,000 feet of a community center. The distance shall be measured as the shortest straight line distance from the property line of the proposed building/business location to the property line of the community center. The zoning administrator may waive this spacing requirement from community centers if the authorized representatives of all existing community centers within 1,000 feet provide a notarized written agreement as provided by the department consenting to the facility.

(2) The facility shall not be located within 300 feet of any existing residential unit not located on the same parcel as the facility. The distance shall be measured as the shortest straight line distance from the closest point of a single-family dwelling (structure) to any structure or fence used for the production of marijuana. The zoning administrator may waive this spacing requirement from residential units if the owners of all existing residential units within 300 feet provide a notarized written agreement as provided by the department consenting to the facility.

(3) On parcels smaller than four and one-half acres the facility shall not exceed a total of 2,000 square feet, except where the facility is contained within a building that existed on the effective date of the ordinance codified in this section.

.138 Marijuana processing facility; provided, that in addition to the criteria found in WCC 20.80.690 through 20.80.694 and WCC 20.84.235:

(1) The facility is accessory to the on-site production of marijuana.

(2) The facility shall not be located within 300 feet of any existing residential unit not located on the same parcel as the facility. The distance shall be measured as the shortest straight line distance from the closest point of a single-family dwelling
(structure) to any structure or fence used for the processing of marijuana. The zoning administrator may waive this spacing requirement if the owners of all existing residential units within 300 feet provide a notarized written agreement as provided by the department consenting to the facility.

(3) On parcels smaller than four and one-half acres the total area used for marijuana processing and production shall not exceed 2,000 square feet, except where the facility is contained within a building that existed on the effective date of the ordinance codified in this section.

Chapter 20.40
AGRICULTURE (AG) DISTRICT

20.40.050 Permitted Uses

.059 Marijuana production facility; provided, that in addition to the criteria found in WCC 20.80.690 through 20.80.694:

(1) The facility shall not be located within 1,000 feet of a community center. The distance shall be measured as the shortest straight line distance from the property line of the proposed building/business location to the property line of the community center. The zoning administrator may waive this spacing requirement from community centers if the authorized representatives of all existing community centers within 1,000 feet provide a notarized written agreement as provided by the department consenting to the facility and the waiver is approved through an administrative approval process per WCC 20.84.235.

(2) The facility shall not be located within 300 feet of any existing residential unit not located on the same parcel as the facility. The distance shall be measured as the shortest straight line distance from the closest point of a single-family dwelling (structure) to any structure or fence used for the production of marijuana. The zoning administrator may waive this spacing requirement from residential units if the owners of all existing residential units within 300 feet provide a notarized written agreement as provided by the department consenting to the facility, and the waiver is approved through an administrative approval process per WCC 20.84.235.
20.40.100 Accessory Uses

.115 Marijuana processing facility, provided in addition to the criteria found in WCC 20.80.690 through 20.80.694:

(1) The facility is accessory to the on-site production of marijuana.

(2) The facility shall not be located within 300 feet of any existing residential unit not located on the same parcel as the facility. The distance shall be measured as the shortest straight line distance from the closest point of a single-family dwelling (structure) to any structure or fence used for the processing of marijuana. The zoning administrator may waive this spacing requirement if the owners of all existing residential units within 300 feet provide a notarized written agreement as provided by the department consenting to the facility, and the waiver is approved through an administrative approval process per WCC 20.84.235.

Chapter 20.42
RURAL FORESTRY (RF) DISTRICT

20.42.050 Permitted Uses

.070 Marijuana production facility; provided, that in addition to the criteria found in WCC 20.80.690 through 20.80.694:

(1) The facility shall not be located within 1,000 feet of a community center. The distance shall be measured as the shortest straight line distance from the property line of the proposed building/business location to the property line of the community center. The zoning administrator may waive this spacing requirement from community centers if the authorized representatives of all existing community centers within 1,000 feet provide a notarized written agreement as provided by the department consenting to the facility and the waiver is approved through an administrative approval process per WCC 20.84.235.
(2) The facility shall not be located within 300 feet of any existing residential unit not located on the same parcel as the facility. The distance shall be measured as the shortest straight line distance from the closest point of a single-family dwelling (structure) to any structure or fence used for the production of marijuana. The zoning administrator may waive this spacing requirement from residential units if the owners of all existing residential units within 300 feet provide a notarized written agreement as provided by the department consenting to the facility, and the waiver is approved through an administrative approval process per WCC 20.84.235.

20.42.100 Accessory Uses

.106 Marijuana processing facility; provided, that in addition to the criteria found in WCC 20.80.690 through 20.80.694:

(1) The facility is accessory to the on-site production of marijuana.

(2) The facility shall not be located within 300 feet of any existing residential unit not located on the same parcel as the facility. The distance shall be measured as the shortest straight line distance from the closest point of a single-family dwelling (structure) to any structure or fence used for the processing of marijuana. The zoning administrator may waive this spacing requirement if the owners of all existing residential units within 300 feet provide a notarized written agreement as provided by the department consenting to the facility, and the waiver is approved through an administrative approval process per WCC 20.84.235.

Chapter 20.80
SUPPLEMENTARY REQUIREMENTS

20.80.210 Minimum setbacks

(5) Setbacks
(b) Setbacks Table.

<table>
<thead>
<tr>
<th>Agricultural (AG)</th>
<th>Commercial, Industrial, I-5, State Hwys, Principal &amp; Minor Arterials</th>
<th>Collector Arterials or Major Collectors</th>
<th>Minor Collectors</th>
<th>Local Access Streets</th>
<th>Neighborhood Collector</th>
<th>Minor Access Streets</th>
<th>Side Yard</th>
<th>Rear Yard</th>
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<td>50'</td>
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</table>

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 and 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.

Minimum front yard requirements can be reduced by the zoning administrator for boundary


line adjustments or farmstead parcels established through WCC 20.40.253 and 20.40.254 if the proposed placement of the structures will result in a better fit with critical areas or prime soils and goes through the approval process in Chapter 21.03 WCC. In no case shall front yard depth be less than 20 feet.

Side yards: minimum side yard setbacks shall be five feet. For boundary line adjustments or farmstead parcels established through WCC 20.40.253 and 20.40.254, the exterior side yard and exterior rear yard requirements of habitable structures shall be 30 feet.

Rear yards: minimum rear yard setbacks shall be five feet.

4. A marijuana production or processing facility shall not be located within 1,000 feet of a community center. The distance shall be measured as the shortest straight line distance from the property line of the proposed building/business location to the property line of the community center. The zoning administrator may waive this spacing requirement from community centers if the authorized representatives of all existing community centers within 1,000 feet provide a notarized written agreement as provided by the department consenting to the facility and the waiver is approved through an administrative approval process per WCC 20.84.235.

5. A marijuana production or processing facility shall not be located within 300 feet of any existing residential unit not located on the same parcel as the facility. The distance shall be measured as the shortest straight line distance from the closest point of a single-family dwelling (structure) to any structure or fence used for the production or processing of marijuana. The zoning administrator may waive this spacing requirement from residential units if the owners of all existing residential units within 300 feet provide a notarized written agreement as provided by the department consenting to the facility, and the waiver is approved through an administrative approval process per WCC 20.84.235.

6. A 10-foot setback from the international border between Canada and the United States shall be maintained as an open space vista. The 10-foot setback area may be used for landscaping, agriculture, and natural vegetation. Structures may only be built within the 10-foot setback area after approval from the International Boundary Commission.

Rural Forestry (RF)

<table>
<thead>
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<th>Road Type</th>
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<tr>
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<tr>
<td>Rear</td>
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<td>Arterials or Major Collectors</td>
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**Water Resource Protection Overlay**

<table>
<thead>
<tr>
<th></th>
<th>30'</th>
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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.

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. 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.

4. Lummi Island scenic estates setbacks shall be administered under the Rural Residential Island setback standards.

5. A 10-foot setback from the international border between Canada and the United States shall be maintained as an open space vista. The 10-foot setback area may be used for landscaping, agriculture, and natural vegetation. Structures may only be built within the 10-foot setback area after approval from the International Boundary Commission.

6. A marijuana production or processing facility shall not be located within 1,000 feet of a community center. The distance shall be measured as the shortest straight line distance from the property line of the proposed building/business location to the property line of the community center. **The zoning administrator may waive this spacing requirement from community centers if the authorized representatives of all existing community centers within 1,000 feet provide a notarized written agreement as provided by the department consenting to the facility and the waiver is approved through an administrative approval process per WCC 20.84.235.**
7. A marijuana production or processing facility shall not be located within 300 feet of any existing residential unit not located on the same parcel as the facility. The distance shall be measured as the shortest straight line distance from the closest point of a single-family dwelling (structure) to any structure or fence used for the production or processing of marijuana. The zoning administrator may waive this spacing requirement from residential units if the owners of all existing residential units within 300 feet provide a notarized written agreement as provided by the department consenting to the facility, and the waiver is approved through an administrative approval process per WCC 20.84.235.

<table>
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<th>Rural (R)</th>
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<th>Other</th>
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<td>Minor Collectors</td>
</tr>
<tr>
<td>45'</td>
<td>45'</td>
<td>35'</td>
</tr>
</tbody>
</table>

Water Resource Protection Overlay

| | 30' | 30' | 20' | 20' | 20' | 20' | 5' | 5' |

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.

2. 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 Chapter 20.38 WCC, Agriculture Protection Overlay.
3. A 10-foot setback from the international border between Canada and the United States shall be maintained as an open space vista. The 10-foot setback area may be used for landscaping, agriculture, and natural vegetation. Structures may only be built within the 10-foot setback area after approval from the International Boundary Commission.

4. A marijuana production or processing facility shall not be located within 1,000 feet of a community center. The distance shall be measured as the shortest straight line distance from the property line of the proposed building/business location to the property line of the community center. The zoning administrator may waive this spacing requirement from community centers if the authorized representatives of all existing community centers within 1,000 feet provide a notarized written agreement as provided by the department consenting to the facility.

5. A marijuana production or processing facility shall not be located within 300 feet of any existing residential unit not located on the same parcel as the facility. The distance shall be measured as the shortest straight line distance from the closest point of a single-family dwelling (structure) to any structure or fence used for the production or processing of marijuana. The zoning administrator may waive this spacing requirement from residential units if the owners of all existing residential units within 300 feet provide a notarized written agreement as provided by the department consenting to the facility, and the waiver is approved through an administrative approval process per WCC 20.84.235.

3 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.

... ... ...

20.80.250 Special setback provisions by district.

... ... ...

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.
(2) A marijuana production or processing facility shall not be located within 1,000 feet of a community center. The distance shall be measured as the shortest straight line distance from the property line of the proposed building/business location to the property line of the community center. The zoning administrator may waive this spacing requirement from community centers if the authorized representatives of all existing community centers within 1,000 feet provide a notarized written agreement as provided by the department consenting to the facility.

(3) A marijuana production or processing facility shall not be located within 300 feet of any existing residential unit not located on the same parcel as the facility. The distance shall be measured as the shortest straight line distance from the closest point of a single-family dwelling (structure) to any structure or fence used for the production or processing of marijuana. The zoning administrator may waive this spacing requirement from residential units if the owners of all existing residential units within 300 feet provide a notarized written agreement as provided by the department consenting to the facility, and the waiver is approved through an administrative approval process per WCC 20.84.235.

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 along the same building line(s) of existing structures and will result in no additional encroachment, and 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, packinghouses and slaughterhouses, 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) The minimum separation between packinghouses/slaughterhouses and schools shall be 500 feet.

(4) The minimum separation between packinghouses/slaughterhouses and adjacent property lines shall be 150 feet.

(5) A marijuana production or processing facility shall not be located within 1,000 feet of a community center. The distance shall be measured as the shortest straight line distance from the property line of the proposed building/business location to the property line of the community center. The zoning administrator may waive this
spacing requirement from community centers if the authorized representatives of all existing community centers within 1,000 feet provide a notarized written agreement as provided by the department consenting to the facility and the waiver is approved through an administrative approval process per WCC 20.84.235.

(6) A marijuana production or processing facility shall not be located within 300 feet of any existing residential unit not located on the same parcel as the facility. The distance shall be measured as the shortest straight line distance from the closest point of a single-family dwelling (structure) to any structure or fence used for the production or processing of marijuana. The zoning administrator may waive this spacing requirement from residential units if the owners of all existing residential units within 300 feet provide a notarized written agreement as provided by the department consenting to the facility, and the waiver is approved through an administrative approval process per WCC 20.84.235.

20.80.256 Forestry districts. (Adopted by reference in WCCP Chapter 2.)

(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 had been created pursuant to the rural forestry district’s clustering provision 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.

(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.

(5) In the Rural Forestry Zone, a marijuana production or processing facility shall not be located within 1,000 feet of a community center. The distance shall be measured as the shortest straight line distance from the property line of the proposed building/business location to the property line of the community center. The zoning administrator may waive this spacing requirement from community centers if the authorized representatives of all existing community centers within 1,000 feet provide a notarized written agreement as provided by the department consenting to the facility and the waiver is approved through an administrative approval process per WCC 20.84.235.

(6) In the Rural Forestry Zone, a marijuana production or processing facility shall not be located within 300 feet of any existing residential unit not located on the same
parcel as the facility. The distance shall be measured as the shortest straight line distance from the closest point of a single-family dwelling (structure) to any structure or fence used for the production or processing of marijuana. The zoning administrator may waive this spacing requirement from residential units if the owners of all existing residential units within 300 feet provide a notarized written agreement as provided by the department consenting to the facility, and the waiver is approved through an administrative approval process per WCC 20.84.235.

Chapter 20.97
DEFINITIONS

20.97.070 Community center.
"Community center" means land and/or building(s) owned by a public agency or private nonprofit entity used for social, civic, educational, religious, or recreational purposes, which serves mainly the community where located; including but not limited to community halls and centers, grange halls, senior citizen centers, teen centers, youth clubs, field houses, and churches. The facilities are available for occasional public meetings. They may also have the minimal kitchen facilities required for occasional banquets. Private clubs as defined in this ordinance are not included.
Call To Order: The meeting was called to order, by Whatcom County Planning
Commission Chair, Nicole Oliver, in the Whatcom County Northwest Annex at 6:35
p.m.

Roll Call
Present: Kelvin Barton, Kate Blystone, Atul Deshmane, Natalie McClendon, Nicole
Oliver
Absent: Gary Honcoop, David Hunter, Andy Rowlison

Staff Present: Mark Personius, Gary Davis, Nick Smith, Becky Boxx

Department Update
Mark Personius updated the commission on the following:
• Commissioner Knapp resigned from the commission as he has moved out of the
district.
• County Council update
• Planning Commission schedule

Open Session for Public Comment
There was no public comment.

Commissioner Comments
Commissioner Deshmane commented on the jail. He wanted clarification if it was on
the Planning Commission schedule for the year.

Mr. Personius stated it is not.

Public Hearing
File #PLN2017-00002: Proposed amendments to the Whatcom County Code Title 20
Zoning, regarding waiver of spacing requirements between marijuana production
facilities and community centers in the Rural, Agriculture, and Rural Forestry districts,
and amending the definition of community center.

Gary Davis presented the staff report.

This amendment was suggested by a single applicant but would take place countywide.
Currently there is a 1,000 foot minimum separation between a production facility and a
community center and a 300 foot separation from a facility and a residential use. The
300 foot separation can be waived with a written agreement between the owner of the
production facility and the owners of the residence. Currently the code does not allow
for that same waiver for the 1,000 from a community center. This proposal would add
that similar language. The marijuana production facility is an administrative approval
use in the Rural zone and a permitted use in the Agricultural and Rural Forestry zones. The proposed amendments would change the zoning chapters and supplemental requirements which would allow the waiver of the setback. It would also change the definition of a community center. Staff recommends approval.

Commissioner Deshmane asked what other types of agricultural commodities have this type of restraint on them.

Mr. Smith stated the State of Washington has moved away from calling marijuana production an agricultural activity. It is not taxed or regulated the same. There is no other commodity treated like this. For retail it would be similar to liquor stores. Washington law requires a production facility setback of 1,000 feet from schools, parks, arcades, daycares, etc. The county code states that in order for a marijuana facility to be permitted you need to get a license from the state. The County Council felt that they wanted a special setback from churches similar to the setback for other places such as schools. That is the reason why the county took the extra step in adding a 1,000 foot setback in the code.

Commissioner Barton commented on the smell from production facilities. Other counties are looking at regulations to deal with that. Has the county looked into that?

Mr. Smith stated they have. Most grow facilities in Whatcom County are indoors. The County Council adopted an odor provision that states that a Washington State engineer must submit a ventilation system to control odor as part of the permit submittal.

Commissioner Barton asked if the size of the facility changes does that require a change in the conditions?

Mr. Smith stated that to begin the process a land use permit is required and they go through an administrative approval process with neighbors being notified, etc. If an expansion is wanted they would go through that same process. It would not require another waiver.

Commissioner Deshmane asked why hemp was not included in this proposal.

Mr. Smith stated hemp is still being studied as to whether it can be a viable agricultural crop.

Ezra Eickmeyer stated hemp is regulated by the Department of Agriculture. It would not apply to this situation. It is not treated as a controlled substance like marijuana.

The hearing was opened to the public.

Ezra Eickmeyer, Jefferson County: He is a lobbyist for the marijuana industry and the CEO of a production facility in Thurston County. His friend, Seth Stromme, has had a medical marijuana production company in Whatcom County for several years. The changes to the permitting process caught him off guard. He is too close to a church
that is considered a community center. That gets in the way of him getting permits to
transition into the recreation marijuana production. Whatcom County is the only
jurisdiction, that he knows of, that has taken all of these 1,000 foot setbacks and
added churches to the list. It is an anomaly in the state. To his knowledge it has only
hurt this one operator because he wasn’t paying close enough attention during the
process. A few years ago the church wrote a letter supporting him and were fine with
him being there. If this amendment is not passed it could cost him his business and
investments. It is non-controversial because it is just giving an option to the church.

The hearing was closed to the public.

**Commissioner Deshmane moved to recommend approval of the staff
recommendation.**

**Commissioner Blystone seconded.**

Commissioner Deshmane was in favor of something even more aggressive than this.
He would like to see less setbacks.

Commissioner Barton stated the proposal is worth supporting but there is a piece that
bothers him. What bothers him is that a person can get a permit, get permission from
the neighbors, build and then later expand and the neighbors have no say in that.

Commissioner Oliver stated she understood Commissioner Barton’s concerns but
churches shouldn’t be treated special.

Commissioner Blystone stated that neighboring property owners would be notified of
any expansion so they have an opportunity to comment.

Mr. Smith agreed but he did not think staff would deny the expansion based on that.

Mr. Davis reminded the commission that the waiver would be from property line to
property line not the site of the building. As long as they stay on the same property
the facility is not going to get any closer.

Commissioner Blystone stated she would like to completely get rid of the setbacks.

Commissioner Barton stated he would not vote in favor of the motion because a person
could agree to something that may change later.

Mr. Eickmeyer stated the main problem with these facilities is the smell, which has
already been addressed in the county’s code. These facilities can only have one license
which limits the facility to 30,000 square feet. Another license would be a whole new
process.
Mr. Smith stated county code allows for some protections through the administrative approval process. The code requires a landscape buffer, based on neighboring property owner’s comments.

Commissioner Barton proposed an amendment to read: Expansion of a facility, for which a waiver has been given, will provide need for a new waiver before said expansion may be approved.

The motion failed for lack of a second.

Commissioner Deshmane stated Whatcom County has an opportunity for this industry to have a positive impact on the economy. To him this is a high value agricultural activity. He wanted to encourage the industry.

Mr. Smith stated marijuana production in the Rural zone requires that a facility cannot exceed 2,000 square feet on parcels 4 ½ acres or less. This was a way to ensure they blend into smaller, denser communities.

Roll Call Vote: Ayes – Blystone, Deshmane, McClendon, Oliver; Nays – Barton; Abstain – 0; Absent – Honcoop, Hunter, Rowlson. The motion failed.

The meeting was adjourned at 7:26 p.m.

Minutes prepared by Becky Boxx.

WHATCOM COUNTY PLANNING COMMISSION ATTEST:

Nicole Oliver, Chair

Becky Boxx, Secretary
Whatcom County
Planning & Development Services
5280 Northwest Drive,
Bellingham, WA 98226-9013
360-676-6907
TTY 800-833-6384
Email: PDS@whatcomcounty.us

Application for Zoning Amendments

Please check one of the following:

☐ Standard Map Amendment  ☐ Site Specific Rezone  ✔ Zoning Text Amendment
  Complete Sections A, B, C, F  Complete Sections A, B, D, F
  Complete Sections A, E, F

Do not write in this section of the application—for official use only.

Date Received: 11/30/16    File: PENZ016-0014
Date Complete:              Initials of reviewer:

Topic of Proposed Amendment: Marijuana producer 1000 ft. buffer from churches/community centers

Waivers

A. General Information – All applicants must complete this section.

Applicant's Name: Seth Stromme of Agape Research

Signature: [Signature]

Mailing Address: PO Box 106
                Acme, WA 98220

Email Address: sstromme76@gmail.com

Home Phone #:    Cell Phone #: 360-739-2045  Business Phone #: 360-739-2045
Agent's Name: Ezra Eickmeyer
Mailing Address: PO Box 504
Quilcene, WA 98376
Email Address: ezra@olypen.com
Business Phone #: 360-301-1842 Cell Phone #: 360-301-1842 Home Phone #:

Please complete the questions below. Attach additional pages as needed.

1. Give a complete but short description of the proposed amendment.

In the current county marijuana ordinance, churches are considered community centers and a 1000 ft buffer from churches has been implemented for production facilities in agriculture zoned districts. There is also a 300 ft buffer against residences, but a production company can get a waiver signed by the owner of the residence waiving the 300 ft. The proposed amendment is to create a similar waiver whereby the legal signers within a church organization could sign a waiver allowing a production facility within 500 or 1000 ft of their church. Under this waiver, whoever has legal signing authority for the church could sign the waiver.

2. Explain how the proposed amendment is consistent with the goals, policies, and overall intent of the Comprehensive Plan by listing specific goals or policies and explaining how the proposal complies with each of them.

The Whatcom County Comprehensive Plan lists a number of relevant goals and priorities:
1) Provide employment opportunities in the rural parts of Whatcom County. 2) Support small businesses. 3) Support efforts and/or organizations trying to achieve agricultural diversity such as niche markets for local products. 4) Maintain and enhance Whatcom County's agricultural products industry as a long-term and sustainable industry. 5) Support agricultural product processing facilities...

Agape had been operating a medical marijuana growing facility in good faith and without incident in this location before implementation of I-502, believing that they were located where the county would want them, an agriculture zone. If the county does not adopt a change to allow their operation, they will lose their investments in the property and likely lose the business. This result would be opposite to the county's above-listed priorities. Additionally, tier-3 producers can employ as many as 90 employees when in full operation. The ramifications to the local community are significant.

3. Describe the "changed" condition(s) which support the amendment.

It does not appear that the County Council knew that it would be eliminating an existing business when it adopted its zoning in 2015 on marijuana facilities. The owner, Mr. Stromme, was not aware of the language regarding churches/community centers until well after passage of the ordinance. Now that the situation has been brought to Council's attention, we believe that a simple solution is reasonable and easy to implement.
B. Zoning Map Amendments (Standard Map Amendments and Site Specific Rezones)

1. Property Interest of Applicant:
   □ Purchaser/Owner       □ Lessee       □ Other: ________________________________

   Existing Comprehensive Plan Designation: ___________________________________________

   Existing Zoning District: _________________________________________________________

   Subarea: _______________________________________________________________________

2. What is the proposed zoning classification? ________________________________________

3. What is the present use of the property or properties within the proposed rezone?

4. Describe the land use of the surrounding properties.
C. Standard Map Amendments

1. Supporting information for standard map amendments. Attach the following items:

   a. A vicinity map showing property lines, roads, buildings and their use, easements, existing and proposed zoning, wells and other pertinent data.

   b. A list of all property owners and others having a legal interest in the property covered by the proposed change.

   c. A list of the names and mailing addresses of the owners of all property within 300 feet (exclusive of roads and alleys).

A site plan may be requested at a future date if the intended amendment is to accommodate a particular development. The applicant may wish to submit a plan at the time of application. The site plan is a scaled drawing showing approximate location of buildings, roadways, parking, drainage facilities, sanitation and water facilities, and easements. Where appropriate, the location of landscaping, buffers, common areas, and typical individual lease spaces for mobile home and recreational vehicle parks shall be included in the site plan.

D. Site Specific Rezones

1. Does the proposed amendment have a substantial relationship to public health, safety, morals, general welfare or community needs?

2. Will the proposed use be serviced adequately by essential public facilities such as highways, streets, public safety and fire protection, drainage structure, refuse disposal, water and sewers, and schools; or will the persons or agencies responsible for the establishment of the proposed use be able to adequately provide any such services? Describe.
3. Is the proposal is located within an Urban Growth Area? □ Yes □ No (go to question #14)
   
   a. Will the site be serviced by full urban services or be capable of receiving urban services in time to serve the development? □ Yes □ No
   
   b. Will the proposed site use preclude development at urban levels of density when the area is annexed into the city? □ Yes □ No
   
   c. Will the proposed site be five (5) or more acres in size? □ Yes □ No

4. Supporting information for site-specific map amendment. Attach the following items:
   
   a. A vicinity map showing property lines, roads, buildings and their use, easements, existing and proposed zoning, wells and other pertinent data.
   
   b. A conceptual site plan drawn at not less than one (1) inch to one-hundred (100), unless mutually agreed to by the proponent and administrative official, including, but not be limited to:
      1. General location of structures.
      2. Location and number of access points.
      3. Approximate gross floor area of structures.
      4. Name of the proposal.
      5. Identification of areas requiring special treatment due to their sensitive nature.
      6. North directional arrow.
      7. Names and location of all public streets or roads bordering the site.
      8. General legal description(s) for the site.
   
   c. Concurrent submittal of a Discretionary Development Permit or Building Permit, if required for the project.

   NOTE: If the project does not require a Discretionary Development Permit or Building Permit or will be constructed in phases, then a narrative statement must be submitted with the conceptual site plan that provides a detailed description of the project proposal and a project completion date. If the project will be constructed in phases provide start and completion dates for each phase and include a final completion date for the entire proposed project.

   d. A list of all property owners and others having a legal interest in the property covered by the proposed change.

   e. Evidence that all property owners within the proposed rezone boundary concur with the rezone and project proposal.
f. Mailing labels with names and mailing addresses of the owners of all property included within the area proposed for re-designation and:

- For a map amendment within an existing urban growth area, mailing labels with the typed address of each property owner within 300 feet of the external boundaries of the subject property as shown by the records of the county assessor.

- For a map amendment outside existing urban growth areas, mailing labels with the typed address of each property owner within 1,000 feet of the external boundaries of the subject property as shown by the records of the county assessor.

For map amendments that involve rezoning property to an Airport Operations District, mailing labels with the typed address of each property owner within 1,500 feet of the external boundaries of the subject property as shown by the records of the county assessor.

g. A completed Environmental Checklist.

E. Zoning Text Amendments

Are there any other circumstances that justify the proposed change?

Creating an additional 1000 ft church buffer requirement for production facilities is not consistent with state law. We are not aware of any other jurisdictions that have enacted such a rule and this may be unique to Whatcom County. The buffer against residential areas is only 300 ft, creating inconsistency within the county's code, while also allowing residents to sign waivers if they do not mind a production facility being located nearby. Additionally, since the county has strong rules against odor from indoor production operations, this possible source of conflict with neighboring homes and establishments has been eliminated.

F. Authorization:

Signature of Applicant(s) or Agent:

Ezra Biglamey \ / 3
Date: 11/28/16

Seth Stromme / S
Date: 11/28/16

Date:
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

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TITLE OF DOCUMENT:

Ordinance adopting amendments to Whatcom County Code Title 20 (Zoning), exempting public community facilities and community centers from lot coverage limits in the Residential Rural (RR), Rural (R), and Point Roberts Transitional Zone (TZ) districts.

ATTACHMENTS:

- Staff Memorandum
- Staff Report
- Draft Ordinance

SEPA review required? (x) Yes ( ) NO
SEPA review completed? (x) Yes ( ) NO

Should Clerk schedule a hearing? (x) Yes ( ) NO
Requested Date

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

(If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Ordinance adopting amendments to Whatcom County Code Title 20 (Zoning), exempting public community facilities and community centers from lot coverage limits in the Residential Rural (RR), Rural (R), and Point Roberts Transitional Zone (TZ) districts.

COMMITTEE ACTION:

COUNCIL ACTION:

Related County Contract #: Related File Numbers: Ordinance or Resolution Number:
PLN2017-00007

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
Memorandum

TO: The Honorable Jack Louws, Whatcom County Executive
The Honorable Whatcom County Council

FROM: Gary Davis, AICP, Senior Planner

THROUGH: Mark Personius, AICP, Assistant Director

DATE: July 14, 2017

SUBJECT: Zoning Code Amendments – Public Facilities Lot Coverage

This proposal, scheduled for discussion by the Planning and Development Committee on July 25, 2017, is to amend Whatcom County Code Title 20 Zoning to exempt public community facilities and community centers from lot coverage limits in the Residential Rural (RR), Rural (R), and Point Roberts Transitional Zone (TZ) districts (see attached staff report).

At the end of its July 13, 2017 public hearing, the Planning Commission voted 4-3 in favor of recommending approval. Because at least five votes are needed to make a recommendation, this application is being forwarded without a recommendation or findings from the Planning Commission.

Attachments:
Draft Ordinance, Proposed Amendments
Staff Report
ORDINANCE NO. ____________

ADOPTING AMENDMENTS TO WHATCOM COUNTY CODE TITLE 20
ZONING, EXEMPTING PUBLIC COMMUNITY FACILITIES AND
COMMUNITY CENTERS FROM LOT COVERAGE LIMITS IN THE
RESIDENTIAL RURAL (RR), RURAL (R), AND POINT ROBERTS
TRANSITIONAL ZONE (TZ) DISTRICTS

WHEREAS, Whatcom County Planning and Development Services has
proposed amendments to Whatcom County Code Title 20 Zoning; and

WHEREAS, The Whatcom County Council reviewed and considered
Planning Commission recommendations, staff recommendations, and public
comments on the proposed amendments; and

WHEREAS, The County Council hereby adopts the following findings of
fact:

FINDINGS OF FACT

1. Whatcom County Planning and Development Services has submitted an
application for amendments to WCC Title 20 Zoning to exempt public
community facilities and community centers from lot coverage limits in the
Residential Rural (RR), Rural (R), and Point Roberts Transitional Zone (TZ)
districts.

2. A determination of non-significance (DNS) was issued under the State
Environmental Policy Act (SEPA) on June 29, 2017.

3. Notice of the subject amendment was submitted to the Washington State
Department of Commerce on June 21, 2017.

4. Notice of the Planning Commission public hearing for the amendments was

5. The Planning Commission held a public hearing on the proposed
amendments on July 13, 2017.

7. Comprehensive Plan Policy 2EE-2 requires that the county ensure adequate public facilities and services in rural areas.

CONCLUSIONS

1. The amendments to the zoning code are the public interest.

2. The amendments are consistent with the Whatcom County Comprehensive Plan.

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

Section 1. Amendments to the Whatcom County Code are hereby adopted as shown on Exhibit A.

ADOPTED this ______ day of ______________, 2017.

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

ATTEST:

Dana Brown-Davis, Council Clerk

Barry Buchanan, Chairperson

APPROVED as to form:

( ) Approved  ( ) Denied

Jack Louws, Executive

Date: ______________________

Page 2 of 2
Whatcom County
Planning & Development Services
Staff Report

Rural Lot Coverage Amendment

I. BACKGROUND INFORMATION

File # PLN 2017-00007

File Name: Title 20 Zoning Code Amendments – Public Community Facilities and Community Centers Lot Coverage

Applicant: Whatcom County Planning and Development Services (PDS)

Summary of Request: Amend Whatcom County Code Title 20 Zoning to exempt public community facilities and community centers from lot coverage limits in the Residential Rural (RR), Rural (R), and Point Roberts Transitional Zone (TZ) districts.

Location: County-wide.

Staff Recommendation: Approval.

History
In 2012 Whatcom County adopted Ordinance 2012-032 in response to the Growth Management Hearings Board decision, which found Whatcom County’s rural development regulations lacked measures to protect rural character. Among the amendments made by this ordinance were changes to the maximum lot coverage standards in the RR, R, and TZ zoning districts. Lot coverage means “the percent of a lot or parcel which is, or will be, covered by all structures located thereon.” (WCC 20.97.217). Before 2012 the maximum lot coverage in these zones was 35% of the lot, regardless of the lot’s size. The 2012 amendments changed the standard to no more than 5,000 square feet or 20 percent, whichever is greater, of the total area, not to exceed 25,000 square feet.

In 2015 in another code amendment related to the same Growth Management Hearings Board case (Ord. 2015-048), the County adopted an amendment to WCC 20.80.100(2) that allowed public community facilities to exceed the cumulative building size limits in rural commercial zones, subject to a conditional use permit. That provision was limited to “a public community facility that serves a predominantly rural area,” in keeping with the Growth Management Act’s intention not to place urban services and facilities in rural areas.
In June 2017 Whatcom County Public Works asked PDS to process a building permit for an addition to a building within the County’s Maintenance and Operations facility on West Smith Road, in the Rural (R) district. The facility already exceeds the lot coverage standards adopted in 2012 and the addition would further exceed the 25,000 square foot maximum. Without this amendment there is no way to approve this addition.  

II. ZONING CODE AMENDMENT

The proposed amendment would exempt both public community facilities and community centers from the lot coverage limits of the RR, R, and TZ zones. These facilities are defined in WCC as follows:

20.97.323.1 Public community facility.
"Public community facility" means a publicly funded community service facility, including but not limited to a fire station, law enforcement station, public school, library, or water/sewer treatment facility; and excluding correction facilities.

20.97.070 Community center.
"Community center" means land and/or building(s) owned by a public agency or private nonprofit entity used for social, civic, educational or recreational purposes\(^2\), which serves mainly the community where located; including but not limited to community halls and centers, grange halls, senior citizen centers, teen centers, youth clubs, field houses and churches. The facilities are available for occasional public meetings. They may also have the minimal kitchen facilities required for occasional banquets. Private clubs as defined in this ordinance are not included.

The county’s maintenance facility falls under the definition of public community facility. Staff proposes adding community centers to the exemption so that other rural facilities such as schools and churches, which often have large building footprints, may expand subject to a conditional use permit.

Consistent with the 2015 amendment to WCC 20.80.100(2) (Ord. 2015-048), under this amendment, these facilities must “serve a predominantly rural area” to be eligible for the exemption. These facilities are conditional uses in the RR, R, and TZ zones.

---

1 Because the maintenance facility is a permitted use in the R zone (WCC 20.36.060) expansion of the building cannot be processed as an expansion of a nonconforming use under WCC 20.83.020. Also there is no "hardship" that would justify an application for a variance.
2 The zoning code’s current definition of "community center" includes churches, but as part of the recent proposed amendments to separation requirements for marijuana production facilities, PDS staff proposed clarifying the definition by adding “religious” to the listed purposes of the community center use. That amendment was intended to reduce the potential for differing interpretations of the community center definition. At this writing, that amendment is still pending County Council consideration.
districts and a conditional use permit would be required to establish or enlarge a facility. ³

Adopting the proposed amendment would allow public and nonprofit facilities the ability to keep pace with the need for their services in rural areas, while at the same time ensuring neighboring property owners have the opportunity to review and comment on any expansion plans through the conditional use process.

III. COMPREHENSIVE PLAN EVALUATION

Whatcom County Comprehensive Plan goals and policies that are applicable to the proposed amendments are listed below:

Goal 2DD: Retain the character and lifestyle of rural Whatcom County.

Policy 2DD-2: Protect the character of the rural area through the County’s development regulations. In addition to the policies of this plan that profice mesures governing rural development, the following County’s key development regulations are incorporated into this plan by reference to assure that the plan contains measures to protect rural character:

* * * *

B. Measures to assure visual compatibility of rural development with the surrounding rural area:

1. Ensure that the visual landscapes traditionally found in rural areas and communities are preserved through limitation on structural coverage of lots in the following Zoning Code provisions, adopted herein by reference:
   a. WCC 20.32.040 Lot coverage, Residential Rural District
   b. WCC 20.36.040 Lot coverage, Rural District

* * * *

Goal 2EE: Ensure that rural areas are provided with services consistent with the rural character and that development patterns do not encourage an increased service level or degrade water quality.

* * * *

Policy 2EE-2: Coordinate and plan public facilities, services, roads, and utilities to ensure that rural areas have appropriate and adequate rural levels of service necessary to maintain a rural lifestyle. Coordinate with rural service providers to ensure efficient and effective service to rural areas.

The subject amendment is consistent with the above referenced Comprehensive Plan goals to protect rural character through measures to assure visual compatibility, and to ensure that adequate public facilities are provided in the rural area.

³ The county maintenance facility, which is a permitted use, would not be subject to a conditional use permit.
IV. PROPOSED FINDINGS OF FACT AND REASONS FOR ACTION

Staff recommends the Planning Commission adopt the following findings of fact and reasons for action:

1. Whatcom County Planning and Development Services has submitted an application for amendments to WCC Title 20 Zoning to exempt public community facilities and community centers from lot coverage limits in the Residential Rural (RR), Rural (R), and Point Roberts Transitional Zone (TZ) districts.

2. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on June 29, 2017.

3. Notice of the subject amendment was submitted to the Washington State Department of Commerce on June 21, 2017.


5. The Planning Commission held a public hearing on the proposed amendments on July 13, 2017.


7. Comprehensive Plan Policy 2EE-2 requires that the county ensure adequate public facilities and services in rural areas.

V. PROPOSED CONCLUSIONS

1. The amendments to the zoning code are in the public interest.
2. The amendments are consistent with the Whatcom County Comprehensive Plan.

VI. RECOMMENDATION

Planning and Development Services recommends that the Planning Commission forward the proposed amendments to the County Council with a recommendation of approval.

ATTACHMENTS

Exhibit A: Draft zoning code amendments
EXHIBIT A

Whatcom County Code Title 20 Zoning

AMENDMENT

Chapter 20.32

RESIDENTIAL RURAL (RR) DISTRICT

20.32.450 Lot coverage. (Adopted by reference in WCCP Chapter 2.)
No structure or combination of structures shall occupy or cover more than 5,000 square feet or 20 percent, whichever is greater, of the total area, not to exceed 25,000 square feet. Public community facilities and community centers that serve a predominantly rural area, and buildings used for livestock or agricultural products shall be exempt from this lot coverage requirement.

Chapter 20.36

RURAL (R) DISTRICT

20.36.450 Lot coverage. (Adopted by reference in WCCP Chapter 2.)
No structure or combination of structures shall occupy or cover more than 5,000 square feet or 20 percent, whichever is greater, of the total area, not to exceed 25,000 square feet. Public community facilities and community centers that serve a predominantly rural area, and buildings used for livestock or agricultural products shall be exempt from this lot coverage requirement.
Chapter 20.37

POINT ROBERTS TRANSITIONAL ZONE (TZ) DISTRICT

. . . . .

20.37.450 Lot coverage.
No structure or combination of structures shall occupy or cover more than 5,000 square feet or 20 percent, whichever is greater, of the total area, not to exceed 25,000 square feet. Public community facilities and community centers that serve a predominantly rural area, and Buildings used for livestock or agricultural products shall be exempt from this lot coverage requirement.

. . . . .
Ordinance amending the Whatcom County Code Title 20 Zoning and the Whatcom County Comprehensive Plan relating to cumulative impervious surface coverage standards.

**COMMITTEE ACTION:**
6/13/2017: Discussed

**COUNCIL ACTION:**
6/13/2017: Introduced 6-0, Donovan Absent
7/11/2017: Referred to the Council's Planning and Development Committee

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
Memorandum

TO: The Honorable Jack Louws, Whatcom County Executive
The Honorable Whatcom County Council

FROM: Gary Davis, AICP, Senior Planner

THROUGH: Mark Personius, AICP, Assistant Director

DATE: May 30, 2017

SUBJECT: Impervious Surface Code Amendments

Discussion of proposed amendments involving impervious surface standards are scheduled for discussion at the June 13 Planning and Development Committee meeting. The attached draft recommended by the Planning Commission would apply to land in the Rural and Residential Rural zones (about 132,000 acres total), but would not apply to farms in those zones that currently have a farm plan that addresses stormwater. For the affected parcels, a new development project that causes the cumulative impervious surface to exceed a threshold of 35 percent of the parcel size, or 45,000 square feet, whichever is greater, would require use of the Department of Ecology stormwater manual to assure stormwater mitigation.

The Planning Commission held four public hearings on the proposal and made its recommendation on April 27 (the minutes of these meetings are attached). The attached April 19 staff memorandum to the Planning Commission outlines four options that were discussed. The memorandum also explains the accompanying Comprehensive Plan amendment, which would update Policy 2DD-2, which references the County’s measures to protect water quality in rural areas.

This proposed amendment is in response to the water quality portion of the Supreme Court’s decision regarding water resources (the Hirst decision). A limit on impervious surfaces is one of the Growth Management Hearings Board’s suggestions for additional measures to protect water quality in rural areas.
If you have any questions, please call Gary Davis, Senior Planner, at extension 5931.

Attachments:

Draft ordinance and amendments: WCC Title 20 Zoning and WCCP Staff Report
February 28, 2017 staff memorandum to Planning Commission
April 19, 2017 staff memorandum to Planning Commission
Planning Commission Minutes
Planning Commission Findings and Recommendations
Public Comments
ORDINANCE NO. _______________

AMENDING THE WHATCOM COUNTY CODE TITLE 20 ZONING AND THE
WHATCOM COUNTY COMPREHENSIVE PLAN RELATING TO CUMULATIVE
IMPERVIOUS SURFACE COVERAGE STANDARDS

WHEREAS, an October 6, 2016 Washington State Supreme Court decision
(Whatcom County, Hirst vs. Western Washington Growth Management Hearings
Board, No. 91475) has found that Whatcom County’s Comprehensive Plan does not
comply with the Growth Management Act (GMA) requirements for protecting water
resources; and

WHEREAS, RCW 36.70A.070(1), requires that the land use element of a
county comprehensive plan “shall provide for protection of the quality and quantity
of groundwater used for public water supplies.”; and

WHEREAS, RCW 36.70A.070(5)(c)(iv) requires that the rural element of a
county comprehensive plan “shall include measures that apply to rural development
and protect the rural character of the area, as established by the county, by: ... protecting critical areas...and surface water and groundwater resources.”; and

WHEREAS, Whatcom County Planning and Development Services has
proposed amendments to Whatcom County Code Title 20 Zoning; and

WHEREAS, The Whatcom County Council reviewed and considered Planning
Commission recommendations, staff recommendations, and public comments on
the proposed amendments; and

WHEREAS, The County Council hereby adopts the following findings of fact
and conclusions:

FINDINGS OF FACT

1. Whatcom County Planning and Development Services has submitted an
application for amendments to WCC Title 20 Zoning to establish
cumulative impervious surfaces.

2. A determination of non-significance (DNS) was issued under the State
3. Notice of the subject amendment was submitted to the Washington State Department of Commerce on January 5, 2017.


5. The Planning Commission held a public hearing on the proposed amendments on January 26, March 9, March 23, and April 27, 2017.

6. The Growth Management Hearings Board and Washington Supreme Court have found Whatcom County’s Comprehensive Plan to be out of compliance with the Growth Management Act in that its rural element lacks measures to protect water quality and availability in rural areas. The Board suggested impervious surface limits as a possible measure the County might adopt to protect water quality.

7. The Whatcom County Comprehensive Plan adopts by reference County Code provisions related to water resources under Policy 2DD-2.C. Revisions to the County Code are therefore also revisions to the Comprehensive Plan. The amendments propose adding Policy 2DD-2.C.10 to adopt by reference the new impervious surface standards proposed in WCC 20.32.500 and 20.36.500.

8. On October 11, 2016 the County adopted Ordinance 2016-045 revising the County’s stormwater regulations and integrating low impact development principles and best management practices into the County’s development regulations in order to meet the state’s 2014 NPDES Phase 2 Permit requirements.

9. The purpose of the proposed Zoning Code and Comprehensive Plan amendments is to resolve an appeal of the Comprehensive Plan filed with the Growth Management Hearings Board. Comprehensive Plan amendments may be considered outside the annual concurrent review of Comprehensive Plan amendments per WCC 2.160.010D.

10. WCC 2.160.080 provides approval criteria for Comprehensive Plan amendments.

11. Whatcom County Comprehensive Plan (WCCP) Policy 10H-8 states: “Strongly incentivize the use of low impact development strategies. Minimize the amount of impervious surface whenever practicable by using natural engineering design methods such as the use of open, grassed, street swales and rain gardens instead of curbs and gutters. Where feasible, encourage alternate surfacing options and other techniques associated with low impact development.”
12. WCCP Policy 10H-12 states: "Amend subdivision, zoning, and other land use regulations and design standards to encourage that land use activities minimize the amount of impervious surface."

CONCLUSIONS

1. The amendment regarding impervious surface limits in rural zoning districts is in the public interest.

2. The amendments are consistent with the Whatcom County Comprehensive Plan.

3. The Comprehensive Plan amendments meet the approval criteria of WCC 2.160.080.

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

Section 1. Amendments to the Whatcom County Code and Comprehensive Plan are hereby adopted as shown on Exhibits A and B.

ADOPTED this _______ day of ______________, 2017.

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

ATTEST:

__________________________________  __________________________________________
Dana Brown-Davis, Council Clerk       Barry Buchanan, Chairperson

APPROVED as to form:

__________________________________  ________________________________
Civil Deputy Prosecutor               Jack Louws, Executive

( ) Approved   ( ) Denied

Date:  ________________________________
EXHIBIT A

Whatcom County Code

AMENDMENTS

TITLE 20 ZONING

Chapter 20.32

RESIDENTIAL RURAL (RR) DISTRICT

20.32.656 Drainage. (Adopted by reference in WCCP-Chapter 2.)
All development activity within Whatcom County shall be subject to the stormwater management provisions of the Whatcom County Development Standards - WCC 20.80.630 – 20.80.635 unless specifically exempted.

No project permit shall be issued prior to meeting submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards Code.

Chapter 20.36

RURAL (R) DISTRICT

20.36.656 Drainage. (Adopted by reference in WCCP-Chapter 2.)
All development activity within Whatcom County shall be subject to the stormwater management provisions of the Whatcom County Development Standards - WCC 20.80.630 – 20.80.635 unless specifically exempted.
No project permit shall be issued prior to meeting submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards Code.

[Note: Revisions identical to the 20.36.656 revision above are made to Sections 20.34.659; 20.37.655; 20.44.652; 20.59.704; 20.60.655; 20.61.704; 20.63.654; 20.64.655; 20.67.653; and 20.69.655.]

Chapter 20.80
GENERAL PROVISIONS

20.80.630 Stormwater and drainage.

(1) Unless exempted in WCC 20.80.631, all development activity on lands within Whatcom County shall be subject to stormwater management requirements as follows:

(a) NPDES Phase II Permit Area. Except in the Lake Whatcom Watershed Overlay District, development activity inside the NPDES Phase II permit area shall comply with:


(ii) Appendix 1, Minimum Technical Requirements, of the Western Washington Phase II Municipal Stormwater Permit; and


(b) Lake Whatcom Watershed Overlay District. Except for areas within or that overlap with the NPDES Phase II permit area (see subsection (1)(a) of this
section). All development activity inside the Lake Whatcom Watershed Overlay District shall comply with Chapter 20.51 WCC, Lake Whatcom Watershed Overlay District, which satisfies all 2013 Western Washington Municipal Stormwater Permit development and redevelopment requirements.

(c) Stormwater Special Districts. Except for areas within or that overlap with the NPDES Phase II permit area (see subsection (1)(a) of this section), development activity inside stormwater special districts (as defined by WCC 20.80.635) shall comply with the Stormwater Manual, using the following modified minimum requirements in the table below, and using the Stormwater Manual’s definitions of terms for "stormwater site plan," "impervious surface," "hard surface," "land disturbing activity," "project," "site," and "replaced hard surface."

Within Special Stormwater Districts – Modified Thresholds for Stormwater Management Table

<table>
<thead>
<tr>
<th>Minimum Requirement (MR)</th>
<th>When Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>MR1 Stormwater Site Plan</td>
<td>&gt; 500 sq. ft. of new impervious surface, or Renovation projects where the estimated cost exceeds 50% of the assessed value</td>
</tr>
<tr>
<td>MR2 Construction SWPPP</td>
<td>Always required</td>
</tr>
<tr>
<td>MR3 Source Control</td>
<td>Not required</td>
</tr>
<tr>
<td>MR4 Preserve Natural Drainage</td>
<td>&gt; 500 sq. ft. of new impervious surface, or Renovation projects where the estimated cost exceeds 50% of the assessed value</td>
</tr>
<tr>
<td>MR5 On-Site Stormwater</td>
<td>• Property ≥ 2 acres meeting MR1, provide dispersion • Property &lt; 2 acres meeting MR1 where soils are suitable</td>
</tr>
</tbody>
</table>
Within Special Stormwater Districts – Modified Thresholds for Stormwater Management Table

<table>
<thead>
<tr>
<th>Minimum Requirement (MR)¹</th>
<th>When Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Management</td>
<td>for infiltration, provide infiltration</td>
</tr>
<tr>
<td></td>
<td>• Property &lt; 2 acres meeting MR1 where soils are not suitable for infiltration and project does not increase the 24-hour, 100-year peak flow rate by ≥ 0.1cfs; provide dispersion</td>
</tr>
<tr>
<td>MR6 Treatment</td>
<td>Always required</td>
</tr>
<tr>
<td>MR7 Flow Control</td>
<td>Property &lt; 2 acres meeting MR1 where project increases the 24-hour, 100-year peak flow rate by ≥ 0.1cfs; provide detention</td>
</tr>
<tr>
<td>MR8 Wetlands Protection</td>
<td>&gt; 500 sq. ft. of new impervious surface, or renovation projects where the estimated cost exceeds 50% of the assessed value</td>
</tr>
<tr>
<td>MR9 O&amp;M</td>
<td>Required only if stormwater facility installed</td>
</tr>
</tbody>
</table>

¹ Minimum requirements MR5 – MR9 likely require preparation by a professional engineer.

(d) Outside (i) the NPDES Phase II Permit Area, (ii) the Lake Whatcom Watershed Overlay District, and (iii) the Stormwater Special Districts. Development activity outside the NPDES Phase II permit area, Lake Whatcom Watershed Overlay District, and stormwater special districts (as defined by WCC 20.80.635) shall comply with the Stormwater Manual, using the following modified minimum requirements in the table below, the definitions for land use intensity in subsection (e) of this section, and using the Stormwater Manual’s definitions of terms for “stormwater site plan,” “impervious surface,” “hard
surface,” “land disturbing activity,” “project,” “site,” and “replaced hard surface”:

**Outside the NPDES Phase II Permit Area, the Lake Whatcom Watershed Overlay District, and the Stormwater Special Districts – Modified Thresholds for Stormwater Management Table**

<table>
<thead>
<tr>
<th>Minimum Requirement (MR)</th>
<th>Land Use Intensity²</th>
<th>Low</th>
<th>Medium</th>
<th>High</th>
</tr>
</thead>
<tbody>
<tr>
<td>MR1 Stormwater Site Plan</td>
<td></td>
<td>≥ 7,000 sq. ft. of new plus replaced hard surface, or</td>
<td>≥ 4,000 sq. ft. of new plus replaced hard surface, or</td>
<td>Per manual³</td>
</tr>
<tr>
<td></td>
<td></td>
<td>≥ 14,000 sq. ft. land disturbing activity</td>
<td>≥ 14,000 sq. ft. land disturbing activity</td>
<td></td>
</tr>
<tr>
<td>MR2 Construction SWPPP</td>
<td></td>
<td></td>
<td>Always required</td>
<td></td>
</tr>
<tr>
<td>MR3 Source Control</td>
<td></td>
<td>Not required</td>
<td></td>
<td></td>
</tr>
<tr>
<td>MR4 Preserve Natural Drainage</td>
<td></td>
<td>≥ 7,000 sq. ft. of new plus replaced hard surface, or</td>
<td></td>
<td>≥ 4,000 sq. ft. of new plus replaced hard surface, or</td>
</tr>
<tr>
<td></td>
<td></td>
<td>≥ 14,000 sq. ft. land disturbing activity</td>
<td></td>
<td>Per manual³</td>
</tr>
<tr>
<td>MR5 On-Site Stormwater Management</td>
<td></td>
<td>Not required</td>
<td></td>
<td></td>
</tr>
<tr>
<td>MR6 Treatment</td>
<td></td>
<td>Not required</td>
<td></td>
<td></td>
</tr>
<tr>
<td>MR7 Flow Control</td>
<td></td>
<td>Not required</td>
<td></td>
<td></td>
</tr>
<tr>
<td>MR8 Wetlands</td>
<td></td>
<td>≥ 7,000 sq. ft. of new</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Outside the NPDES Phase II Permit Area, the Lake Whatcom Watershed Overlay District, and the Stormwater Special Districts – Modified Thresholds for Stormwater Management Table

<table>
<thead>
<tr>
<th>Minimum Requirement (MR)(^1)</th>
<th>Land Use Intensity(^2)</th>
<th>Low</th>
<th>Medium</th>
<th>High</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protection</td>
<td></td>
<td>plus replaced hard surface, or</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>≥ 14,000 sq. ft. land disturbing activity</td>
<td></td>
<td></td>
</tr>
<tr>
<td>MR9 O&amp;M</td>
<td></td>
<td>Required only if stormwater facility</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>installed</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1 Minimum requirements MR5 – MR9 likely require preparation by a professional engineer.

2 See subsection (1)(e) of this section to determine land use intensity.

3 Application of the stormwater manual is not required where a County-, state-, or federally-approved farm plan, or equivalent document, demonstrates stormwater is being effectively managed.

(e) The land use intensities in the above table have the following meanings:

Land Use Intensity for Stormwater Management Table

Note: Any project that results in new plus replaced hard surface greater than or equal to 10 percent of the gross parcel size or 20,000 sq. ft., whichever is greater, or converts 1.5 acres of vegetation to lawn or five acres of vegetation to pasture, or results in cumulative impervious surface exceeding 35% of the total parcel area (between 10,000 and 45,000 square feet) is subject to the thresholds for "high
"Intensity" land uses.

| Low                      | Single-family residential and accessory uses on lots of record of 25,000 sq. ft. or larger;  
|                         | Construction of agricultural buildings, including those used in the processing and wholesale of agricultural products, on agricultural land as defined by RCW 84.34.020(2);  
|                         | Seasonal roadside stands; or  
|                         | Roads (other than those exempt as pavement maintenance).  
| Medium                  | Single-family residential and accessory uses on lots of record smaller than 25,000 sq. ft.;  
|                         | Short subdivisions of land into four or fewer lots;  
|                         | Minor utility developments; or  
|                         | Trails and trailheads.  
| High                    | All other uses, including all commercial, industrial, institutional, and urban or multifamily residential uses;  
|                         | Subdivisions of land into more than four lots;  
|                         | All uses on parcels bisected by the NPDES Phase II permit area boundary; or  
|                         | Any project that results in new plus replaced hard surface greater than or equal to 10 percent of the gross parcel size or 20,000 sq. ft., whichever is greater, or converts 1.5 acres of vegetation to lawn or five acres of vegetation to pasture; or  
|                         | In the Rural and Residential Rural districts, any project on a parcel smaller than three acres that results in the parcel having a cumulative impervious surface exceeding 10,000 square feet or 35% of gross parcel size, whichever is greater; or  

• In the Rural and Residential Rural districts, any project on a parcel of three acres or larger that results in the parcel having a cumulative impervious surface exceeding 45,000 square feet.

Note: For purposes of determining high intensity land use, the calculation of cumulative impervious surface shall not include roadways or driveways in public rights-of-way or in easements that serve other parcels.

(2) No project permit shall be issued prior to meeting the stormwater requirements of this section and/or the 2012 Washington State Department of Ecology Stormwater Management Manual for Western Washington, as amended. Advisory Note: Certain stormwater discharges to natural receiving waters are subject to state water quality standards and the requirements of the National Pollutant Discharge Elimination System (NPDES). Hydraulic project approval (HPA) may also be required if stormwater is discharged to a water body or stream that provides, or could provide, habitat for fish.

. . . . .

EXHIBIT B

Whatcom Comprehensive Plan

AMENDMENTS

Chapter Two – Land Use

. . . . .

Policy 2DD-2: Protect the character of the rural area through the County’s development regulations. In addition to the policies of this plan that provide measures governing rural development, the following County’s key development regulations are incorporated into this plan by reference to assure that the plan contains measures to protect rural character:
C. Measures to protect critical areas and surface and groundwater resources:

1. Protect the functions and values of critical areas (geologically hazardous areas, frequently flooded areas, critical aquifer recharge areas, wetlands, and habitat conservation areas) and the ecological processes that sustain them, through WCC 16.16 Critical Areas provisions, which apply throughout the rural area and are adopted herein by reference.

2. Minimize the adverse effects of discharges from on-site sewage systems on ground and surface waters through WCC 24.05, adopted herein by reference.


4. Protect surface and ground water resources through stormwater management standards established in the County's Development Standards per WCC 20.80.630 through 20.63.635, WCC 20.51, 20.71, and 20.88.035 referenced in the following Zoning Code provision, adopted herein by reference:

   a. 20.32.656 Drainage, Residential-Rural District;
   b. 20.34.659 Drainage, Rural-Residential-Island District;
   c. 20.36.656 Drainage, Rural District;
   d. 20.37.655 Drainage, Point Roberts Transitional District;
   e. 20.44.652 Drainage, Recreation and Open Space District;
   f. 20.59.704 Drainage, Rural-General-Commercial District;
   g. 20.60.655 Drainage, Neighborhood-Commercial District;
   h. 20.61.704 Drainage, Small-Town-Commercial District;
   i. 20.63.654 Drainage, Tourist Commercial District;
   j. 20.64.655 Drainage, Resort Commercial District;
   k. 20.67.653 Drainage, General-Manufacturing District;
5. Assure that subdivisions meet requirements for critical areas, shoreline management, and stormwater management through the standards in the following Whatcom County Land Division regulations, adopted herein by reference:

   a. WCC 21.04.034 Application Procedures, Short subdivisions.
   b. WCC 21.05.037 Hearing Examiner Notice Hearing and Decision, Preliminary Long Subdivisions.

6. Limit water withdrawals resulting from land division through the standards in the following Whatcom County Land Division regulations, adopted herein by reference:

   a. WCC 21.04.090 Water supply, Short Subdivisions.
   b. WCC 21.05.080 Water supply, Preliminary Long Subdivisions.

7. Regulate groundwater withdrawals by requiring purveyors of public water systems and private water system applicants to comply with Washington State Department of Ecology water right requirements per WCC 24.11.050, adopted herein by reference.

8. Require evidence of an adequate water supply prior to issuance of any building permit, per WCC 24.11.060, adopted herein by reference.

9. Determine adequacy of water supply for building permit applications proposing to use a well, spring, or surface water, per WCC 24.11.090, .100, .110, .120, .130, .160, and .170, adopted herein by reference.

10. Limit phosphorus entering Lake Whatcom through WCC 20.51 Lake Whatcom Watershed Overlay District and Lake Whatcom and Lake Samish due to the application of commercial fertilizers to residential laws and public properties through WCC 16.32, adopted herein by reference.

11. Protect vital drinking water, sensitive habitats, and recreational resources within the Department of
Ecology's designated Western Washington Phase II Municipal Stormwater Permit area and the Lake Whatcom watershed by prohibiting illicit discharges to the county's stormwater collection system through WCC 16.36 Illicit Discharge Detection and Elimination Program, adopted herein by reference.

12. Maintain standards for clearing activity in highly valued water resource areas, environmentally sensitive areas, or areas where natural conditions are so unstable that clearing activity in the area can result in hazardous conditions per WCC 20.80.735 Water Resource Special Management Area, adopted herein by reference.
Whatcom County
Planning & Development Services
Staff Report

Rural Impervious Surface Amendments

I. BACKGROUND INFORMATION

File # PLN2016-00013

File Name: Water Resources Amendments

Applicant: Whatcom County Planning and Development Services (PDS)

Summary of Request: Planning and Development Services proposes amendments to Whatcom County Code (WCC) Title 20 Zoning to:

1. Add maximum limits on impervious surfaces in the Residential Rural (RR) and Rural (R) zones,
2. Update references to stormwater standards in several chapters of the zoning code.

The proposed amendments to the Whatcom County Comprehensive Plan (WCCP) include adding a reference to the impervious surface standards in the zoning code and updating the plan’s references to the stormwater standards.

Location: County-wide.

Staff Recommendation: Approval.

II. BACKGROUND

The purpose of the amendments is to resolve part of an appeal of the WCCP filed with the Growth Management Hearings Board. The amendments are in response to the Washington Supreme Court’s October 6, 2016 Hirst decision affirmed the June 7, 2013 Growth Management Hearings Board order, which found that the WCCP does not contain adequate measures to protect water quantity and water quality (the WCCP does not contain policies regarding protection of water quality that apply throughout the rural area). The County is in the process of addressing the first issue, water quantity, through new regulations requiring proof of adequate legal water supply prior to issuance of development permits (Ordinance 2016-066). The proposed amendment setting standards for impervious surface (attached) is
intended to address the second issue, water quality. Impervious surface regulation is one of the measures suggested by the Growth Management Hearings Board in its 2013 order (Case No 12-2-0013, June 7, 2013 Final Decision and Order, p. 43) and suggested again in Justice Madsen’s opinion concurring with the Hirst decision.

III. AMENDMENT PROVISIONS

The attached code amendment would place limits on impervious surfaces on lots in the Residential Rural (RR) and Rural (R) zoning districts. The proposed square footage limits would include the building footprints permitted under the 2012 lot coverage limits plus additional areas such as driveways, patios, and other impervious surfaces not covered by buildings. Pervious pavement, and driveways in public rights of way or serving other lots, would be excluded from the impervious surface total. The revised stormwater standards adopted in 2016 establish thresholds for individual buildings that would be subject to stormwater management per the 2012 Department of Ecology Stormwater Manual but those standards do not address the cumulative effect on a lot. These proposed amendments provide a cumulative standard for all impervious surfaces on a lot but allow for exceeding that maximum if stormwater is managed through the 2012 manual. This measure would be adopted by reference into the WCCP with the addition of a new Policy 2DD-2.C.10.

PDS proposed impervious surface standards as part of the Rural Element amendments in 2012, at the same time revised lot coverage (maximum building footprint) regulations were proposed. The lot coverage standards were adopted (WCC 20.32.450 and 20.36.450) but the additional impervious surface standards were not. The proposed impervious surface standards would provide a measure to protect water quality in the rural areas, while the existing lot coverage standards would serve more to protect rural character by limiting size of buildings (exempting agricultural buildings).

PDS prepared the attached study of typical impervious surface and lot coverage patterns in the rural areas for discussion in 2012. This study focuses on smaller rural lots (created in 2-acre zoning or nonconforming lots in 5-acre zoning) where impervious surface maximums are likely to be the most challenging. The study indicates that on some of these lots (A, J, N, R, V, W, and X) the the proposed impervious surface coverage is already exceeded. The proposed amendments would allow relief for these lots similar to relief allowed for other nonconforming uses.
Other County actions responding to the water quality aspect of the *Hirst* decision have been completed or are pending. One finding of the decision is that the policy that adopted by reference the County's provision for self-inspection of on-site septic systems (OSS), Policy 2DD-2.C.2, does not adequately protect water quality. The County Health Department will soon be proposing amendments to the County's Health Code that would eliminate the provision for OSS self-inspection. This would amend WCC Chapter 24.05, which is adopted by reference in WCCP Policy 2DD-2.C.2.

On October 11, 2016 the County adopted Ordinance 2016-045 revising the County's stormwater regulations and integrating low impact development principles and best management practices into the County's development regulations in order to meet the state's 2014 NPDES Phase 2 Permit requirements. These regulations apply throughout the County, including all the rural areas. The stormwater standards were consolidated into WCC 20.80.630-635. These proposed amendments would update various code chapters to refer to that section of the code, rather than the County Development Standards document, where the standards had been located prior to Ordinance 2016-045. Proposed amendments to WCCP Policy 2DD-2.C.4 reflect this change.

In addition, the proposed WCCP amendment adds wording to Policy 2DD-2.C.1, clarifying that the County’s Critical Areas Ordinance (WCC Chapter 16.16) applies to the entire rural area.

**IV. COMPREHENSIVE PLAN AMENDMENT CRITERIA**

This proposal includes WCCP amendments that would update references to the water quality provisions of WCC. Per WCC 2.160.080, in order to approve an initiated comprehensive plan amendment, the planning commission and the county council shall find all of the following:

1. The amendment conforms to the requirements of the Growth Management Act, is internally consistent with the county-wide planning policies and is consistent with any interlocal planning agreements.

   The amendment is intended to conform to the GMA requirement of measures to protect water quality in the rural element of the Comprehensive Plan.

2. Further studies made or accepted by the department of planning and development services indicate changed conditions that show need for the amendment.
The findings of the Growth Management Hearings Board and Supreme Court suggest the need for the amendment.

3. The public interest will be served by approving the amendment. In determining whether the public interest will be served, factors including but not limited to the following shall be considered:
   a. The anticipated effect upon the rate or distribution of population growth, employment growth, development, and conversion of land as envisioned in the comprehensive plan.

   The amendment is intended to lessen the impact of population growth and conversion of land on water quality.

   b. The anticipated effect on the ability of the county and/or other service providers, such as cities, schools, water and/or sewer purveyors, fire districts, and others as applicable, to provide adequate services and public facilities including transportation facilities.

   The amendment is not expected to affect provision of services.

   c. Anticipated impact upon designated agricultural, forest and mineral resource lands.

   The amendment primarily affects rural lands, not resource lands.

4. The amendment does not include or facilitate spot zoning.

   The amendment proposes no change of zoning boundaries.

5. Urban growth area amendments that propose the expansion of an urban growth area boundary shall be required to acquire development rights from a designated TDR sending area.

   The amendment proposes not changes to urban growth area boundaries.

V. PROPOSED FINDINGS OF FACT AND REASONS FOR ACTION

Staff recommends the Planning Commission adopt the following findings of fact and reasons for action:

1. Whatcom County Planning and Development Services has submitted an application for a code amendment to limit impervious surfaces in the Residential Rural (RR) and Rural (R) zones.
2. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on January ___, 2017.

3. Notice of the subject amendment was submitted to the Washington State Department of Commerce on January 5, 2017.


5. The Planning Commission held a public hearing on the proposed amendments on January 26, 2017.

6. The Growth Management Hearings Board and Washington Supreme Court have found Whatcom County’s Comprehensive Plan to be out of compliance with the Growth Management Act in that its rural element lacks measures to protect water quality and availability in rural areas. The Board suggested impervious surface limits as a possible measure the County might adopt to protect water quality.

7. The Whatcom County Comprehensive Plan adopts by reference County Code provisions related to water resources under Policy 2DD-2.C. Revisions to the County Code are therefore also revisions to the Comprehensive Plan. The amendments propose adding Policy 2DD-2.C.10 to adopt by reference the new impervious surface standards proposed in WCC 20.32.500 and 20.36.500.

8. On October 11, 2016 the County adopted Ordinance 2016-045 revising the County’s stormwater regulations and integrating low impact development principles and best management practices into the County’s development regulations in order to meet the state’s 2014 NPDES Phase 2 Permit requirements.

9. The purpose of the amendments is to resolve an appeal of the Comprehensive Plan filed with the Growth Management Hearings Board. Such amendments may be considered outside the annual concurrent review of Comprehensive Plan amendments per WCC 2.160.010D.

10. WCC 2.160.080 provides approval criteria for Comprehensive Plan amendments.

**VI. PROPOSED CONCLUSIONS**

1. The amendment regarding impervious surface limits in rural zoning districts is in the public interest.
2. The amendments are consistent with the Whatcom County Comprehensive Plan.
3. The Comprehensive Plan amendments meet the approval criteria of WCC 2.160.080

VII. RECOMMENDATION

Planning and Development Services recommends the Planning Commission forward the proposed amendments to the County Council with a recommendation of approval.

Attachments:
   Proposed Amendments
   Lot Coverage and Impervious Surface Estimates
Memorandum

TO: The Honorable Planning Commission
FROM: Gary Davis, AICP, Senior Planner
THROUGH: Mark Personius, AICP, Assistant Director
DATE: February 28, 2017
SUBJECT: Impervious Surface – Alternative Draft Amendment

On January 26, 2017 the Planning Commission held a public hearing on Planning and Development Services staff’s proposed addition of an impervious surface limit in the Residential Rural and Rural zoning districts. At that meeting, commissioners asked for a revised proposal with larger limits or more flexibility on storm water treatment of impervious surfaces, and requested additional information on the Growth Management Hearings Board (Board) suggestions for measures to protect water quality contained in their 2013 order, and on water quality science.

Attached is a revised draft of the code amendments. In this draft, impervious surface provisions would be incorporated into the newly-revised stormwater provisions in WCC 20.80.630 rather than as maximum “impervious surface” size limits in Chapters 20.32 and 20.36, which govern Residential Rural and Rural zoning districts. Those latter two chapters would still contain “lot coverage” standards for maximum structure coverage, as well as references to WCC 20.80.630 for drainage/stormwater standards. The revised amendment also raises the impervious surface threshold for stormwater review to a cumulative impervious surface amount of 10,000 square feet or 35% of the parcel size (whichever is greater) for parcels under 3 acres, and any project in which the cumulative total of impervious surface is more than 45,000 square feet on parcels greater than 3 acres. The hard limit on impervious surfaces has been removed.

Below is the paragraph from the Board’s June 7, 2013 order listing the Board’s suggestions:
In sum, the County is left without Rural Element measures to protect rural character by ensuring land use and development patterns are consistent with protection of surface water and groundwater resources throughout its Rural Area. This is especially critical given the water supply limitations and water quality impairment documented in this case and the intensity of rural development allowed under the County’s plan. The record shows that the County has many options for adopting measures to reverse water resource degradation in its Rural Area through land use controls. As is discussed by state agency reports and the County’s own Comprehensive Plan, the County may limit growth in areas where water availability is limited or water quality is jeopardized by stormwater runoff. It may reduce densities or intensities of uses, limit impervious surfaces to maximize stream recharge, impose low impact development standards throughout the Rural Area, require water conservation and reuse, or develop mitigation options. The County may consider measures based on the strategies proposed in the Puget Sound Action Agenda, the WRIA 1 process, WDFW’s Land Use Planning Guide, Ecology’s TMDL or instream-flow assessments, or other ongoing efforts. It may direct growth to urban rather than rural areas.

As staff said on January 26, the County has already addressed several of these suggestions. In October 2016 the County adopted low impact development standards and a revision to its stormwater code in WCC 20.80.630. Reducing densities and directing growth to urban areas had already been accomplished to a great extent during the 2011-12 rural element rezones, and the recent urban growth area review done as part of the 2016 Comprehensive Plan update. Though growth limitations would have an effect on creating less impervious surfaces, these measures are arguably geared more toward water quantity issues than water quality, as are conservation and mitigation options.

The Board’s order (p. 32) also cites science-based policy recommendations from the Washington Department of Fish and Wildlife’s “Planning for Salmon, Steelhead and Trout,” which in turn references the Booth and May studies cited by staff at the January 26 meeting:

“Traditional urban and rural development practices remove forests, vegetation and topsoil, compact soils, and increase impervious surface areas, diminishing the land’s ability to hold and infiltrate rainwater. The remaining water becomes stormwater runoff, rushing off impervious surfaces such as roofs, roads and compacted soils instead of infiltrating the soil column (Booth 2000). Runoff is of particular concern in regions of intense rainfall, such as glacial outwash regions surrounding Puget Sound, or limited vegetation and landscapes with thin soils, such as the arid and semiarid interior east of the Cascade Range (Booth 2000).

Recent research in western Washington has determined that measurable degradation to downstream aquatic habitat occurs where impervious cover exceeds 5-10% and native forest cover is reduced to less than 65% of watershed area (May et al. 1996; Booth 2000). Washington state agencies such as the Puget Sound Partnership and the State of Washington Department of Ecology, as well as the federal Environmental Protection Agency, have determined that stormwater runoff is the leading contributor to water quality pollution of urban waterways in western Washington State.
(http://www.psp.wa.gov/stormwater.php). Therefore, it is imperative that local
governments manage stormwater with policies, regulations and incentive programs
(e.g. Low Impact Development) to reduce and treat stormwater runoff."

As staff presented on January 26, the May study did not say 5-10% impervious
surface level represented a threshold:

Results of the Puget Sound Lowlands study have shown that physical, chemical, and
biological characteristics of streams change with increasing urbanization in a
continuous rather than threshold fashion. Although the patterns of change differed
among the attributes studied and were more strongly evident for some than for
others, physical and biological measure generally changed most rapidly during the
initial phase of the urbanization process as %TIA above the 5-10% range. As
urbanization progressed, the rate of degradation of habitat and biologic integrity
usually became more constant.

And the Booth study added:

Almost every increment of cleared land, and of constructed pavement, is likely to
result in some degree of resource degradation of loss. The decision of how much is
"acceptable" is as thus as much a social decision as a hydrologic one.

Links to the full GMHB order and the Booth and May studies are provided below:

GMBH Case No. 12-2-0013 Final Decision and Order, June 7, 2013

Derek B. Booth, "Forest Cover, Impervious-Surface Area, and the Mitigation of
Urbanization Impacts in King County, Washington, 2000
https://www.researchgate.net/publication/251805504_FOREST_COVER_IMPERVIOUS-
SURFACE_AREA_AND_THE_MITIGATION_OF_FOREST_COVER_IMPERVIOS-
SURFACE_AREA_AND_THE_MITIGATION_OF_URBANIZATION_IMPACTS_IN_KING_C
OUNTRY_WASHINGTON_URBANIZATION_IMPACTS_IN_KING_COUNTY?_sg=ml80osIB
9mgEGcXY6TS1x_490a2Spxq0UvNwIRmwoKojGdLdeAH89S2nfA5eIt_eDPgL7WZNDb7
Eiutc038FFw

Christopher W. May, Richard R. Horner, James R. Karr, Brian W. Mar, Eugene B.
Welch, "The Cumulative Effects of Urbanization on Small Streams in the Puget Sound
Lowlands Region,” 1997
https://www.researchgate.net/publication/240437080_Effects_of_Urbanization_on_S
mall_Streams_in_the_Puget_Sound_Lowland_Ecoregion

Attachments:
Revised Draft Amendments
Memorandum

TO: The Honorable Planning Commission

FROM: Gary Davis, AICP, Senior Planner

THROUGH: Mark Personius, AICP, Assistant Director

DATE: April 19, 2017

SUBJECT: Impervious Surface – April 27 Public Hearing

In January 2017 the Planning Commission held a public hearing on Planning and Development Services staff’s proposed addition of an impervious surface limit in the Residential Rural and Rural zoning districts. At that meeting, commissioners asked for a revised proposal with larger limits or more flexibility on storm water treatment of impervious surfaces.

Staff returned with a revised draft for a second public hearing on March 9. Under that proposal, impervious surface provisions would be incorporated into the newly-revised stormwater provisions in WCC 20.80.630 rather than as maximum “impervious surface” size limits in Chapters 20.32 and 20.36, which govern Residential Rural and Rural zoning districts (those latter two chapters would still contain “lot coverage” standards for maximum structure coverage, as well as references to WCC 20.80.630 for drainage/stormwater standards). The revised amendment also raised the impervious surface threshold for stormwater review to a cumulative impervious surface amount of 10,000 square feet or 35% of the parcel size (whichever is greater) for parcels under 3 acres, and any project in which the cumulative total of impervious surface is more than 45,000 square feet on parcels greater than 3 acres. The hard limit on impervious surfaces was removed. Because the threshold would be located in the general “supplementary requirements” chapter of the code, it would be effective countywide, not just in the R and RR zones.

At a third public hearing on March 23, the Planning Commission asked staff to return in April to discuss options for reducing the impact on agricultural uses, as the greater concern for stormwater runoff is on the smaller parcels in the Rural zones, rather than agricultural uses on larger parcels where there is more room for water to be infiltrated
on the site. At that meeting, four alternatives were discussed, each of which would provide relief for agricultural uses on large parcels:

**Option 1**: Return to original proposal of applying the requirements to the Residential Rural (RR) and Rural (R) zones only.

**Option 2**: Replace the 45,000 square foot threshold for all parcels over three acres with a threshold that increases based on a percentage of the parcel size.

**Option 3**: Exempt uses where stormwater is managed through a farm plan.

**Option 4**: Exempt all parcels over 20 acres.

Option 1 would make the threshold apply to the RR and R zones only, and not the Ag zone. The disadvantage of this option is that agricultural uses in the RR and R zones would be subject to different rules that those in the Ag zone. This option could be accomplished either by placing the threshold in the Zoning Code chapters for the RR and R zones (WCC 20.32 and 20.36, as was originally proposed) or by noting in the stormwater standards of 20.80.630 that the thresholds apply to R and RR zones only (of the two, staff would recommend the latter).

Option 2 would require a new formula for the percentage of the parcel covered by impervious surface (the March 10 draft holds the threshold constant at 45,000 square feet – a little over one acre – for parcels larger than 3 acres). A disadvantage of tying the threshold to parcel size is that an agricultural operation can consist of several tax parcels under the same ownership, and the parcel on which a project is proposed might be a relatively small one and subject to a lower threshold than if the parcel lines were drawn differently.

Option 3 would require PDS staff to ascertain whether a parcel has a farm plan or nutrient management plan that assures retention and infiltration on the parcel. An advantage of this option is that stormwater mitigation measures would not be duplicated; if a farm plan already shows that stormwater is being effectively managed, there would be no need for additional study. A disadvantage of Option 3 is that some agricultural uses (particularly berry operations) might not have a farm plan currently.

Option 4 would exempt parcels larger than 20 acres that have considerable impervious surface and may or may not retain all its stormwater. Also, as in Option 2, tax parcel sizes may vary, making some agricultural operations subject to the thresholds, while others that happen to be on larger parcels are not.

Staff discussed these four options with the Agricultural Advisory Committee (AAC) at its April 12 meeting. Though the committee lacked a quorum and could not make a formal recommendation, consensus of those present was to support Option 3. Staff concurs with the AAC that this is the most equitable and effective option, and
has added it to the draft code amendment (Exhibit A), as a note in 20.80.630, p. 5-6.

Also proposed was a change to the definition of “impervious surface” to WCC 20.97 Definitions, exempting driveways serving other lots from the impervious surface calculation for a parcel. The Department of Ecology submitted a comment letter saying these surfaces would be considered impervious surfaces in the Ecology’s stormwater manual, and this blanket exemption could be inconsistent with the stormwater manual. Staff proposes moving the exemption to the cumulative impervious surfaces standards of 20.80.630, where it is clear the exemption would only apply to determining the threshold for requiring use of the stormwater manual, rather than change the countywide definition of impervious surface.

As discussed in the January staff report, this action also includes proposed amendments to the Comprehensive Plan (Exhibit B) updating Policy 2DD-2.C.4’s references to stormwater standards in WCC, and adding wording to Policy 2DD-2.C.1 clarifying that the County’s Critical Areas Ordinance (WCC Chapter 6.16) applies to the entire rural area.

Proposed findings of fact and reasons for action (revised):

1. Whatcom County Planning and Development Services has submitted an application for amendments to WCC Title 20 Zoning to establish cumulative impervious surfaces.

2. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on January 25, 2017.

3. Notice of the subject amendment was submitted to the Washington State Department of Commerce on January 5, 2017.


5. The Planning Commission held a public hearing on the proposed amendments on January 26, March 9, March 23, and April 27, 2017.

6. The Growth Management Hearings Board and Washington Supreme Court have found Whatcom County’s Comprehensive Plan to be out of compliance with the Growth Management Act in that its rural element lacks measures to protect water quality and availability in rural areas. The Board suggested impervious surface limits as a possible measure the County might adopt to protect water quality.

7. The Whatcom County Comprehensive Plan adopts by reference County Code provisions related to water resources under Policy 2DD-2.C. Revisions to the County Code are therefore also revisions to the Comprehensive Plan. The amendments propose adding Policy 2DD-2.C.10
to adopt by reference the new impervious surface standards proposed in WCC 20.32.500 and 20.36.500.

8. On October 11, 2016 the County adopted Ordinance 2016-045 revising the County’s stormwater regulations and integrating low impact development principles and best management practices into the County’s development regulations in order to meet the state’s 2014 NPDES Phase 2 Permit requirements.

9. The purpose of the proposed Zoning Code and Comprehensive Plan amendments is to resolve an appeal of the Comprehensive Plan filed with the Growth Management Hearings Board. Comprehensive Plan amendments may be considered outside the annual concurrent review of Comprehensive Plan amendments per WCC 2.160.010D.

10. WCC 2.160.080 provides approval criteria for Comprehensive Plan amendments.

11. Whatcom County Comprehensive Plan (WCCP) Policy 10H-8 states: “Strongly incentivize the use of low impact development strategies. Minimize the amount of impervious surface whenever practicable by using natural engineering design methods such as the use of open, grassed, street swales and rain gardens instead of curbs and gutters. Where feasible, encourage alternate surfacing options and other techniques associated with low impact development.”

12. WCCP Policy 10H-12 states: “Amend subdivision, zoning, and other land use regulations and design standards to encourage that land use activities minimize the amount of impervious surface.”

Proposed Conclusions:

1. The amendment regarding impervious surface limits in rural zoning districts is in the public interest.

2. The amendments are consistent with the Whatcom County Comprehensive Plan.

3. The Comprehensive Plan amendments meet the approval criteria of WCC 2.160.080.

Attachments:

Exhibit A: Proposed Zoning Code Amendments
Exhibit B: Proposed Comprehensive Plan Amendments
RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION
January 26, 2017

Regular Meeting

Call To Order: The meeting was called to order, by Whatcom County Planning Commission Chair, Nicole Oliver, in the Whatcom County Northwest Annex at 6:30 p.m.

Roll Call
Present: Natalie McClendon, Jerry Vekved, Gary Honcoop, Nicole Oliver, Michael Knapp, Kelvin Barton, Andy Rowison, Atul Deshmane
David Hunter in attendance at 6:34

Staff Present: Mark Personius, Ryan Ericson, Gary Davis, Becky Boxx

Department Update
Mark Personius updated the commission on the following:

- Mr. Personius presented Kate Blystone who was chosen to fill the vacancy on the Planning Commission. She will begin serving at the February 9, 2017 meeting.
- Mr. Personius thanked Jerry Vekved and presented him with a plaque for his years of service on the commission.
- The upcoming Planning Commission schedule.
- Updates from County Council.

Open Session for Public Comment
Carole Perry, Whatcom County: Thanked Commissioner Vekved for his work on the commission. She commented on the Planning Commission meeting that had taken place regarding dog kennels. That meeting was a disaster because not all of the commissioners were at the meeting. Because lot of the members were not at the meeting the truth didn’t really come out. She asked if there is some sort of code stating who a Planning Commissioner member should be or who they should represent. She would like to know how they are chosen. (Staff will supply her with the information.)

Commissioner Comments
Commissioner Honcoop thanked Commissioner Vekved for his service on the commission.
Commission Deshmane also thanked Commissioner Vekved.
Commission Hunter also thanked Commissioner Vekved.

File #PLN2016-00013: Proposed amendments to the Whatcom County Code Title 20 Zoning, adding standards for impervious surface coverage in the Residential Rural (RR)
and Rural (R) districts, amending references to stormwater standards, in addition to
amendments to the Whatcom County Comprehensive Plan Policy 2DD-2.C to amend
references to WCC Title 20 Zoning.

Gary Davis presented the staff report.

These amendments would add maximum limits on impervious in the Residential Rural
(RR) and Rural (R) zones. It would also update references to stormwater standards in
several chapters of the zoning code. It would also amend the Comprehensive Plan by
adding a reference to the impervious surface standards that would be added to the
zoning code and updating the plan’s references to the stormwater standards which
were updated and moved last year. The purpose of the amendment is to respond to
the Supreme Court’s October 6, 2016 Hirst Decision which affirmed the 2013 Growth
Management Hearing’s Board (GMHB) order that found that the county’s
Comprehensive Plan does not contain adequate measures to protect water quantity
and quality. The county is in the process of addressing the first issue. Setting
standards for impervious surface is intended to address the second issue which is
water quality. This is one of the measures suggested by the GMHB in its 2013 order.
Back in 2012, when the county was originally responding to the GMHB decision on the
2011 Rural Element amendments, the county adopted new lot coverage requirements,
which were basically 20 percent of the lot area which was capped at 25,000 square
feet. The impervious surface amendments were proposed at the same time but were
not adopted. The lot coverage standard applies to structures only. What is being
proposed now is to, in addition to that, add more room to allow for impervious surfaces
such as driveways, patios, etc. That would create a cap of 25 percent up to 35,000
square feet. Back in 2012 the county did a study looking at some sample parcels from
around the county. They were designed to look at what might be the toughest cases. A
lot of them are on smaller lots. Parcels that have existing impervious surfaces greater
than 25 percent would be considered nonconforming and they would be treated as any
other nonconforming use. In 2012 staff presented some studies that had been
commonly cited in Western Washington regarding impervious surfaces. Is there a good
threshold and hard and fast rule for what percentage improves water quality? What
one of the studies found says that degradation of water quality occurs pretty rapidly,
into the 5 and 10 percent impervious surface range. After that it is a judgement call.
Other studies have shown there is no truly negligible amounts of clearing or watershed
imperviousness. The decision about how much is acceptable is as much a social
decision as a hydrologic one. In October 2016 the county adopted revised stormwater
regulations. The impervious surface proposals do not make any changes to those
regulations but they would update various code chapters that refer to the stormwater
regulations.

Commissioner Oliver asked if there were any other options the county was looking at.

Mr. Davis stated the county has already done low impact development and there were
some rezones done. The Health Department is proposing changes to the on-site septic
inspection system. There are also the recently adopted stormwater changes.
Commissioner Oliver asked if driveways in the public right-of-way are exempt.

Mr. Davis stated driveways in an easement or public right-of-way would be exempt. Also not counted against the property is a driveway that crosses your property and accesses the neighbor. Driveways on your property, only used by you, would be counted.

Commissioner Honcoop stated the site of the residence on a property is typically decided by type of soils, critical areas, etc. Sometimes there is no choice but to put the house at the back of the property and have a long driveway.

The hearing was opened to the public.

Loren VanderYacht, Whatcom County: Mr. VanderYacht distributed photos of his property. He stated he has five acres which he has lived on for 19 years. Clean stormwater is not only a personal priority but also a civic duty. He has 25 years’ experience in the asphalt business. He has built several hundred driveways and parking lots including their stormwater conveyance systems, both pervious and impervious. If this proposal goes through his property will be nonconforming. He currently has about 41,000 square feet of impervious surface. He had been planning on doing a 1,000 square foot addition to his house but he would not be able to if this passes. It will be cost prohibitive to do engineered stormwater. He has built his own driveway which should be a model for stormwater. The stormwater pond doubles as a green swimming pool. It does not use chemicals. All of the stormwater from the buildings is piped into catch basins, goes through a rain garden or infiltrated through sand layers. He would like the cap changed to 45,000 or 50,000 square feet.

Ron Reimer, Whatcom County: He is an excavation contractor. He has taken low impact development classes at Washington State University. Making people get professional stormwater design is going to kill them financially. It does not have to be that way. Top soil can be brought in to mitigate the runoff. That is a simple answer. Why add an arbitrary cap? It should just be left at a percentage. These things can be done very simply. You are not considering all of the impacts to the rural lifestyle and certainly not to farming. Don’t put limits on people. Give them criteria and a reasonable expectation.

Carole Perry, Whatcom County: Most of the people in this room have had training on this issue. You have to in order to understand it. Is there any science that supports what is being done? Last Tuesday the council discussed the septic tank issue. We have been lead to believe that the county is running with sewage all over. Now they want to take away letting a person do their own inspection. The actual numbers show that out of 600 people that did their own inspection only 17 failed. Ordinary citizens can’t understand all of these rules. How do all of these rules affect real people on the ground?

The hearing was closed to the public.
Mr. VanderYacht stated he has taken classes regarding pervious and impervious pavement design. Porous pavement works until it plugs. They all plug. He can treat the water just as good with a conventional pavement system as with he can with porous pavement as long as the soil conditions allow him to do so. The pervious surface limits become very arbitrary.

Commissioner Barton asked what the maintenance cycle is for cleaning of pervious surfaces.

Mr. VanderYacht stated the problem is no one maintains them. The schedule depends on the site. It could be as frequent as monthly. You design them as if they are going to fail which it will if not maintained.

Commissioner Honcoop stated rural areas are not like urban areas. If you look at coverage per acre and look at urban versus rural impervious surfaces your total coverage is urban areas is significantly greater. In rural areas the runoff on the site is typically very limited. Most of the time the water shedding off of the driveway is hitting the grass on each side and that is the end of it. That is the way it should be. The percentages are much too low because it is not allowing the area that would be created by the driveways in a typical rural area. In the rural areas the house is typically not up against the road as in urban areas, for a variety of reasons. Where did these percentages come from? They are just pulled out of the air. Where is the scientific backing?

Commissioner Rowlson asked if this proposal is the least onerous, the most or where is it in the range of solutions to solve the lawsuit.

Mr. Davis stated this is the number we are starting with based on proposals from 2012. Is there anything magical about the 35,000 foot cap? No.

Commissioner Rowlson asked if there is a magic number.

Mr. Davis stated the studies he summarized earlier indicate thee is no magic number. It’s a balancing act.

Commissioner Rowlson stated that is an issue for him because there is only one proposal with one option. It would be helpful to have ranges of options. The commission has no idea what the right number would be. Are there other things that can be done besides lot coverage? He had no idea what was in the tool kit.

Mr. Ericson clarified the new rules that were put into effect in October 2016. If a project comes in that is 20,000 square feet of impervious surface, or greater, it triggers review of the stormwater manual. With this impervious surface area proposal this catches the cumulative impacts to the lot.
Commissioner Knapp asked if there were specific violations that triggered the need to do this. What is prohibiting illicit discharge? Other than the state asking the county to bring this into compliance is there any specific thing that triggered it?

Mr. Ericson stated the illicit discharge program is a requirement of our phase II stormwater NPDES permit. The state requires the county to have the program.

Commissioner Knapp asked if there is a certain threshold that has been violated that caused the county to need to do this.

Mr. Ericson stated Whatcom County streams are impaired. They don’t meet the state water quality standards. That is the driving force of the court case. The illicit discharge is prohibiting the discharge of anything but rainwater into the stormwater system. The impervious surface wouldn’t get to that because that is more targeted at oil, phosphates, etc. getting into the system.

Commissioner Hunter stated the thing he was concerned about was the dissatisfaction with the underlying premise that there is a good reason for attempting to establish limits on impervious surfaces. Whether there is some evidence that impervious surfaces create problems for us. What is the science? He was not ready to make any decisions because of his uncertainty about the full understanding of what is happening and why these regulations occur. The public seems to be uneasy about these things.

He asked if staff could provide the commission what it is that linked the problems with impaired water systems and impervious surfaces. Is there precise information that provides them with guidance in order to help them? There is the assumption that this is a very hard decision to make on individual property owners in the county and they are wondering why it can’t be done more simply. He was open to less onerous ways to resolve the problem of degradation of our waterways. He was not open to ignoring the problem of the degradation of waterways.

Commissioner Honcoop stated there should be some simple things in the toolkit. We should be looking at what is existing and what is new. If the water is not leaving the site it shouldn’t be an issue. If it is not discharging to a public body of water it doesn’t need to be treated. Someone should be able to demonstrate this and not be limited to the square footage. There should be options.

Commissioner Deshmane agreed that there should be some flexibility. People often buy property with plans of what they want to do with it so they should be able to without having these strict regulations. It would be good to understand how this court decision connects to this particular policy.

Commissioner Barton agreed there needs to be more tools in the toolkit. Applicants should be able to show other alternatives. He also wanted to know the scientific data behind the numbers chosen.

Mr. Davis reviewed the options stated in the GMHB case. It states the County may limit growth in areas where water availability is limited or water quality is jeopardized by stormwater runoff. It may reduce densities or intensities of uses, limit impervious
selves to maximize stream recharge, impose low impact development standards
throughout the Rural Area, require water conservation and reuse, or develop mitigation
options. Some of these apply to water quantity, where we are only looking at quality in
these regulations.

Commissioner McClendon wanted confirmation on the comments she heard that if the
water is not running off the site none of this matters. Is that true?

Mr. Ericson stated full dispersion is one of the options but the 2012 stormwater manual
almost always jumps to engineering. The option of ignoring runoff is no longer there
because of restrictions from the state.

Commissioner Oliver stated there needs to be more context to get them to why we are
doing this. Saying it is because the court says we have to is not going to fly. What is a
reasonable reaction to the court order? We aren’t doing these things to penalize
individuals we are doing it for the bigger picture reason which is Puget Sound is
polluted. Everyone has to do this. The economy is currently supporting spending large
amounts of money to develop lots that would have never been developed before.

Commissioner Honcoop pointed out examples where it is highly unlikely the water is
running into Puget Sound. Why is a driveway exempt if it is for access for the
neighbor? It has the same amount of runoff. The key to all of this is not concentrating
that water. Driveways, of reasonable width, don’t concentrate the water. Houses,
patios, etc. should be treated differently than driveways.

Commissioner Rowlson commented on some comments made. It has been said if the
water does not leave the site than it is good, but is it clean?

Mr. Personius stated the issue there is that it doesn’t flow into a stream and pollute it.
The presumption is that if the water stays on site the filtering occurs as it permeates
the soil.

Commissioner Oliver stated that if you get over a certain amount of impervious surface
you have to hire someone to show that doesn’t leave the site.

Commissioner Honcoop stated the fix through the manual is worse than if you do
nothing.

Commissioner Hunter stated laws can’t be written that address every single issue.
Rules have to be written that cover generalized situations, to some extent. He would
love to see a limit on density in the rural areas but can’t imagine how it can be done. It
can’t be done unless it’s by incentive, certainly not by regulation. He was not willing to
vote no on a proposal just because it may have a negative effect on some people. That
is just the nature of regulations.
Commissioner Oliver stated there needs to be balance when doing regulations. You need to be able to regulate but also enforce it. You have to figure out how to fit most things pretty well.

Mr. Davis stated staff will look at other alternatives to present to the commission at a later date.

The meeting was adjourned at 8:33 p.m.

Minutes prepared by Becky Boxx.

WHATCOM COUNTY PLANNING COMMISSION ATTEST:

Nicole Oliver, Chair

Becky Boxx, Secretary
Call To Order: The meeting was called to order, by Whatcom County Planning Commission Chair, Nicole Oliver, in the Whatcom County Northwest Annex at 6:35 p.m.

Roll Call
Present: Nicole Oliver, Gary Honcoop Michael Knapp, David Hunter, Kelvin Barton
    Natalie McClendon in attendance at 6:38
    Atul Deshmame in attendance at 6:40
Absent: Andy Rowison, Kate Blystone

Staff Present: Mark Personius, Ryan Ericson, Gary Davis, Becky Boxx

Department Update
Mark Personius updated the commission on the following:
    • The County Council schedule
    • The Planning Commission schedule

Open Session for Public Comment
Carole Perry, Whatcom County: Stated there is a need for people to really know their fields. The commission needs to know how their decisions really affect people. The council really needs information from people who really know how it affects lives. People who are experts don’t come to the meetings. She also stated there was a close association with the latest person appointed to the commission and someone on the council. She is not comfortable with that. She is also glad that the commission decided to continue the flag salute.

Commissioner Comments
Commissioner Knapp presented a book he has been working on regarding the history of the Lake Samish area.

Approval of Minutes
February 23, 2017: Commissioner Honcoop moved to approve as written. Commissioner Oliver seconded. The motion carried.

Public Hearing
Gary Davis updated the commission on comments received and changes made since the last meeting on this issue.

The lot coverage regulations, in place now, have a 20% lot coverage limit, capping at 25,000 square feet. That lot coverage applies to structures only. At the last meeting staff proposed to add to that an additional requirement that would limit impervious surfaces, both structural and non-structural, to 25% and capped at 35,000 square feet.
per lot. After the discussion staff is proposing some changes. One being that threshold
would go up to 35%, for lots under 3 acres, and over that would be a 45,000 square
foot threshold. The other change is that limit would not be in the individual chapters
for the Rural and Rural Residential codes along with the lot coverage. It would instead
be applied as a cumulative total in the stormwater section of code. The exception
regarding a neighbor’s driveway crossing your property is not included in this version.
Staff would like to discuss this with the commission to see if they are comfortable with
not having that. It can be a confusing issue.

The hearing was opened to the public.

Loren VanderYacht, Whatcom County: Has experience in the paving industry. He has
read both the Booth and the May studies that the memo references. Both of the
studies are those done on the effects of urbanization on waterways. Here we are
addressing rural, not urban, areas. How can a study done in an urban area be applied
to a rural area? These studies should only apply to properties within current UGA
boundaries. Current rural zoning and the Growth Management Act (GMA) do not allow
growth beyond what is currently allowed in the rural areas. Also, these studies were
done in King County. They describe the glacial soils in King County, which are
predominately made up of glacial till. This is a non-porous soil that does not allow the
water to penetrate. On the other hand, western Whatcom County is primarily made up
of a glacial outwash, which allows free draining. These facts make the studies
arbitrary. There is insufficient test data, or evidence, of poor stormwater quality in the
rural areas. There are about a dozen different agencies working to clean up water
quality in the county, but that water quality is fecal coliform and E.coli which is not
related to rural stormwater. He did not feel there was a need for the proposed rules. It
would not improve water quality because the water permeates well here. There is no
incentive to put your water in the ground on your own property. There should be an
incentive for this in the proposal.

Carole Perry, Whatcom County: Having speakers here who know about the issues is a
good thing. She was troubled by the fact that the commissioners don’t understand
these rules and some of them work in this field. In this county things are so
complicated that the commission and the council don’t have enough information to
make good decisions so the only people that can make the decisions are the people in
the Planning Department. If no one can figure this stuff out why do you think people
are frustrated? It happens over and over.

Max Perry, Whatcom County: How would one know that there was a hearing that
evening? It’s not in any notifications. Because of that there is only one person here.

The hearing was closed to the public.

Commissioner Knapp stated there is a mix of soils in the county.
Mr. Ericson agreed there is a mix of soils but they are predominately well drained soils. The reason these studies were referenced is because all of the subsequent literature done by the agencies, since those studies, all point back to those studies.

Commissioner Knapp asked if there is any literature from the GMHB relating to us upgrading what we are doing and if they had any concerns about the different soil types.

Commissioner Oliver stated the commission had asked for more scientific understanding as to why we are doing this. That is why these studies were provided.

Mr. Davis stated one of the main points staff wanted to make from the studies was that those studies found there is no magic threshold under which there is no impairment and over which there is always impairment. The more impervious surface the more impairment. Impairment starts to appear at levels where you have even 5% to 10% impervious surfaces.

Mr. Ericson stated they look at the impact of impervious surfaces as a whole in the entire watershed not just on a parcel by parcel basis.

Commissioner Honcoop stated the studies are not that applicable to Whatcom County. They address the cumulative effect of urbanization on small streams. They have been completely taken out of context.

Commission Deshmane asked staff to clarify the use of incentives to keep water on site.

Mr. Ericson stated that low impact development (LID) is required first in the stormwater manual. Infiltration is always the first recommendation. There are really no incentives listed. Instead of applying all of the most stringent regulations to every single type of land use we have divided land uses up into three types. Low is residential and accessory uses. We have also included construction of agricultural buildings and seasonal roadside stands. It also includes uses that are larger than ½ acre. Medium intensity would be single residences and their accessory uses on lots smaller than ½ acre and short subdivisions. High would be commercial, industrial or long subdivisions. There is also the provision that states: Any project that results in new plus replaced hard surface greater than or equal to 10 percent of the gross parcel size or 20,000 square feet, whichever is greater immediately bumps you up to a high intensity use for purposes of stormwater. What it didn’t capture was a project that may be 30,000 square feet of impervious surface with and addition of 15,000 square feet it would be under the threshold. Staff felt that they should have to use the manual due to the fact that they are going to have a paved area with just over an acre of impervious surface in total.

Commissioner Honcoop stated staff is interchangeably using the term hard surface and impervious. They are not the same thing. Mixing the definitions creates some confusion.
Mr. Ericson stated they stand by the regulations they have written. The definitions clarify what each means.

Commissioner Hunter stated he was not comfortable with the idea that we don’t need to worry about the amount of impervious surface in the rural areas becoming significant. Would the amount of impervious surface likely be below 10% in the rural areas, and therefore not something we should worry about?

Mr. Davis stated he was not sure that blanket statement could be made. That would be reasonable to assume on some of the larger rural residential parcels.

Commissioner Hunter asked if there is any way to know whether other types of development contribute to impervious surface that goes beyond 10%. Industrial lots, etc.

Mr. Personius stated he was not aware of any studies done here that would show that. Staff doesn’t think that is a major water quality issue.

Commissioner Oliver stated that for years she has heard there is potential for growth in the county because of all the lots that have been created out there. Is that some of the problem we are dealing with?

Mr. Personius stated that is one of the arguments. The permitted uses in the rural zones are GMA compliant.

Commissioner Hunter stated the proposal allows for more cumulative impervious surface than it did before.

Mr. Personius stated the code never had a cap for impervious surface. This proposal says that rather than putting a cap on it says the stormwater manual will mitigate any additional impervious surface over a certain amount.

Commissioner Hunter asked if they were satisfied to have the potential for that much impervious surface.

Commissioner Honcoop stated the stormwater manual is going to apply its own cap which could be at a lower level depending on lot size, coverage, etc. The advantage of the manual is that it creates an enforcement mechanism that wasn’t there before. The manual clearly says you have to do certain things. He doesn’t like the fact that a developer has to spend a lot of money to go through this and the county doesn’t have the staff to deal with it. That in itself will create limits.

Commissioner Knapp asked staff if the recommendations they have made satisfy the GMHB. Are there other options that might better address the issue?

Mr. Davis stated he couldn’t predict what the GMHB will say but this is one of the options they suggested to us.
Mr. Personius stated the county had conversations with the appellants and they stated this proposal would satisfy them.

Commissioner Hunter stated that in his opinion there needs to be an exemption for the shared driveway especially when it comes to building new ones. In the case of a subdivision, that serves more than one lot, the stormwater is taken care of when the road is put in. If that is not exempt it is being counted twice. There is a fairness issue for the lots in the front versus the lots in the back. Also, what happens when the Health Department changes their rules? That is a challenge all the time. The exemption that was there previously needs to go back in.

Mr. Ericson stated his recommendation would be to put the exemption in the impervious surface definition due to the fact that the special watershed districts have caps on the amount of impervious surface. Staff processes variances, which cost more money, for people in these situations were staff has to count everything. Under the definition you would state the portion of the shared driveway is not counted towards your lot.

**Commissioner Honcoop moved to add to the definition of Impervious surface, 20.97.187: The following shall not be included in the impervious surface total: roadways or driveways in public rights of way or in easements that serve neighboring properties.**

**Commissioner Knapp seconded.**

Commissioner Hunter stated that he would rather it reflect that once it is figured out how many properties are being served by that driveway that the cumulative effect for the number of properties that are served by that should be the figure that you look at when doing impervious surface calculations, rather than just the lot it is on.

Commissioner Knapp stated that often these properties are developed over time, not all at once so that would not work.

Commissioner Honcoop did not agree with Commissioner Hunter’s comments. There are too many variables. You are going to have to survey every other lot that is served by that driveway. The county is going to require documentation of what the real surface area is.

**The motion carried (ayes-7, nays-0).**

The commission will have another public hearing on this issue March 23, 2017.

The meeting was adjourned at 8:30 p.m.

Minutes prepared by Becky Boxx.
RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION
March 9, 2017

Regular Meeting

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2 WHATCOM COUNTY PLANNING COMMISSION ATTEST:
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7 Nicole Oliver, Chair

Becky Boxx, Secretary
Call To Order: The meeting was called to order, by Whatcom County Planning Commission Chair, Nicole Oliver, in the Whatcom County Northwest Annex at 6:30 p.m.

Roll Call
Present: Natalie McClenndon, Gary Honcoop, Nicole Oliver, Michael Knapp, Andy Rowson, Kate Blystone
Atul Deshmane in attendance at 6:33 p.m.
David Hunter in attendance at 6:48 p.m.
Absent: Kelvin Barton,

Staff Present: Mark Personius, Ryan Ericson, Gary Davis, Becky Boxx

Department Update
Mark Personius updated the commission on the following:
The County Council schedule.

Open Session for Public Comment
Carole Perry, Whatcom County: Stated she was glad to see so many people at the meeting and that the public hearing was extended. She hoped the people attending had an understanding of impervious surfaces. There is no subject the commission has taken up that illustrates more the complexity, that citizens endure trying to understand the laws and regulations of, than the lahar issue. The council was privileged to have a three hour presentation from the USGS on lahars. The commission was not privileged to have that so they struggled with the issue. She received a paper regarding the presentation and shared a small amount of it.

Commissioner Comments
Commissioner Blystone introduced herself as the new member of the commission.

Public Hearing
File #PLN2016-00013: Proposed amendments to the Whatcom County Code Title 20 Zoning, adding standards for cumulative impervious surface coverage, amending the definition of impervious surface, and amending references to stormwater standards, in addition to amendments to the Whatcom County Comprehensive Plan Policy 2DD-2.C to amend references to WCC Title 20 Zoning.

Gary Davis gave an update of the current proposal. At the last meeting staff brought forward a proposal that moved the proposed impervious surface standards from the RR and R zones to a more general location of the supplementary requirements in Chapter 20.80 of the zoning code. At the end of the session there was a motion to add an amendment to the definition of impervious surface which exempted driveways that
served other parcels, so that would not count against the parcel for total impervious surface.

Mr. Davis reviewed the different land use intensities:

Agricultural buildings, and single family residences on > 25,000 sq.ft. lot, are Low Intensity land uses

Minimum Requirements (MR's) currently required for:

≥7,000 sq.ft. new plus replaced hard surface:

- MR1 Stormwater Site Plan
- MR2 Construction SWPPP
- MR4 Preserve Natural Drainage
- MR8 Wetlands Protection

<7,000 sq.ft. new plus replaced hard surface:

- None of the MR's are required

Effect of proposed amendment:

>2,000 sq.ft. new surface where a parcel's cumulative impervious surface would exceed 45,000 sq.ft. (35% if under 3 acres): Use becomes High Intensity

- All MR's per stormwater manual

- MR1 Stormwater Site Plan
- MR2 Construction SWPPP
- MR3 Source Control
- MR4 Preserve Natural Drainage
- MR5 On-Site Stormwater Management
- MR6 Treatment
- MR7 Flow Control
- MR8 Wetlands Protection

Current and Proposed:

<2,000 sq.ft. new surface exempt from stormwater manual, even if parcel's impervious surface would exceed 45,000 sq.ft.

Staff received a comment from the Department of Ecology (DOE) stating they believe the proposed change to the definition of impervious surface would be at odds with the Stormwater Manual. Staff does not agree with this because of the difference between the definition of "hard surface" and "impervious surface". The staff proposal only changes the definition of impervious surface. Everything in the stormwater section of the code and the Stormwater Manual deal with "hard surface."
The hearing was opened to the public.

Carole Perry, Whatcom County: Why has this subject come up again? Is it in relation to the Hirst case?

Mr. Davis stated the Hirst decision touched upon both water quality and water quantity. The GMHB found that the county’s rural land use regulations did not protect water resources, either in terms of water quantity, which is the well issue, or water quality which is stormwater and impervious surfaces. In their decision, which was upheld by the Supreme Court, they listed a number of measures that the county could take in order to properly address those things. Placing limits on total impervious surface was one of those things. At the first meeting, regarding this issue, the proposal that staff brought forward was to place limits on impervious surface in the Rural and Residential Rural zones. Originally the proposal stated 25% of your property, under 3 acres or 35,000 square feet if over 3 acres. The Planning Commission asked staff to increase those numbers so they went up to 35% if under 3 acres and 45,000 square feet if over 3 acres. The big change was that instead of being a cap, it was now a cumulative threshold over which you could go but it would mean there would be extra work in terms of making sure that the water stayed on site. There is no way to know if this will pass with the GMHB. Some of the other things they suggested the county has already done.

Loren VanderYacht, Whatcom County: The stormwater degradation is coming off of the roads, it is not coming off of the individual residential properties. The largest single owner of impervious surface, in rural Whatcom County, is Whatcom County. There are not many projects being done by Whatcom County to improve their stormwater quality. The burden is being placed on the private owners, who are not, at this point, contributing to poor stormwater quality. In most cases stormwater in infiltrated on site and in most cases is not running off of the property. The studies the county reference, as to why this needs to be done, were done in King County and urban settings, on glacial till soils, not glacial outwash soils. This is completely different from what we have here. We don’t have any studies or data showing that the stormwater, in rural Whatcom County, is not of good quality. The county is jumping to regulations to potentially satisfy the state. We don’t even know if this will work. Why doesn’t the county go back to them with the things they have implemented to see if that satisfies them before taking this further.

Brad Radder, Whatcom County: Why is this necessary? As a member of the farming community they would like to see the water go back into the soil on the property so they can use it. Why move it to another parcel? Berries are not an easy crop to grow and they feel like they are swimming upstream and fighting a battle they shouldn’t have to be fighting. With these types of regulations it is one thing after another. The farmers are very disappointed that things have come to this. Was any due diligence done to know the cost of this and what it could cost the industry? Did anyone think to notify the people in the county that this might affect? Don’t try to sneak this in.
Wayne Stremler, Whatcom County: The officials in this county have created a culture of almost fighting the public. He is in the construction business and people are constantly asking him if permits are needed for what they are doing. He tells them to do it the right way and get a permit. They get punished for that by the county saying instead of can I help you they get an attitude of the county looking at everything they can to make it difficult for them. You can pass all the rules you want but if you deter everyone around you you will not get what you are trying to get. What happens if the county does nothing to satisfy the court decision?

Marty Maberry, Whatcom County: There is ambiguous language in this ordinance. The way it currently exists is a big problem if they add onto their farm processing. He wanted clarification on the thresholds. (Mr. Ericson clarified for him) Things are changing so fast in this community it makes it a very difficult place to do business, particularly in the north county. Things are coming at the farmers at such rapid speed they can’t deal with things. People need to be notified regarding these things. It seems most of the regulations are coming down on rural Whatcom County. Agriculture needs to be able to move forward or it will go away. When you have hundreds of acres and you have x amount of impervious surface it’s not the same as when you have a couple of acres and you are covered ¾ with impervious surface. They have plenty of room. The roads in their fields should not be considered. The rain rolls off and goes right into the dirt.

Terry Lenssen, Whatcom County: Agrees with the previous speakers. These rules are not what the county needs. He does see what the county is trying to do in satisfying the Hirst case. The county talks a lot about preserving agricultural land and farming but if the farmer is not preserved there will not be anyone here to take care of the farm land and be good stewards of it. They want to take care of land. Decimating the environment makes no sense because they need to make money off of the land. As a dairyman he is already fighting multiple fronts. To be sustainable they need to keep growing. At some point it gets ridiculous to even try anymore because they are being driven out of business. No one in the community was even aware this meeting was taking place. There needs to be better communication so people can get involved.

Landon VanDyke, Whatcom County: Dairy and raspberry farmer. Agrees with the previous speakers. The farmers know how to take care of the ground. The rules don’t make sense, as presented. The farmers are already well regulated and this just adds a huge burden. If the county wants to preserve agriculture don’t put more burden on the farmers.

Andy Enfield, Whatcom County: A Whatcom County farmer. Agrees with the previous speakers. Sustainability is the current buzzword. Agriculture is sustainable if they don’t get run out. The land and water have to be sustainable or they won’t have a crop. They use the same water over and over. They pull it out of the ground to irrigate and it goes back in the ground to be reused. There is no problem with the water. Farmers test their water a lot. These rules will hurt farmers.
Rob Dhaliwal, Whatcom County: Agrees with the previous speakers. There has not been any testing done on where the contamination has come from and what the county wants the farmers to do. The county is just putting the burden on the farmers to put them out of business. The calculations in the proposal don’t make sense. There has to be some type of tradeoff based on the amount of acres. What does the DOE consider pervious surfaces? His understanding is that once rainwater or stormwater hits the ground it becomes property of the state, so for it to be treated does not fall within the guidelines.

Alan Yoder, Whatcom County: He noted there was mention of removing vegetation and replanting pasture, over a certain threshold, in the proposal. Most of the people that run livestock on pasture have fence lines, tree lines, etc. which they occasionally clear and reseed so they can reclaim some of that ground. It seems silly to make a vegetation buffer that is going to filter the rainwater maybe even better than the original vegetation and they are being penalized for that. Agriculture is not given the recognition it deserves for being the stewards of the water that they are. All of the rainwater is filtered through these fields.

Tony Larson, Whatcom County: A lot of people have been impacted by the water quantity part of this issue. His sense from the County Council was that they want to do something to help people but the Supreme Court makes the final decisions. They agreed that the original intent was probably honorable but it is overreaching. Now there are people from the state legislature looking for a fix to the issue. This is probably the only way this mess is going to get fixed. If there are so many people that believe that this is an overreach why, as a county, why don’t we wait and find out if there is a fix to this before we put more problems onto the existing problems?

Harold VanBerkum, Whatcom County: Dairy farmer. It is hard to encourage the next generation to go into farming. The expense and the rules are too much. The small local farmers can’t compete against the large farms if the county keeps tying their hands. These rules will add major costs to doing any improvements.

Carole Perry, Whatcom County: Was happy to see so many people at the hearing. The rules are too complicated.

Max Perry, Whatcom County: A state senator said that if the GMA is not working for a county, which it’s not, then the counties need to get together and let the legislature know that and opt out of it. Maybe that is an option for Whatcom County.

Marty Mayberry, Whatcom County: There was a comment made at a County Council meeting that the Hirst case was good intentioned but it went too far. He took issue with that. He did not believe that case was good intentioned.

Landon VanDyke, Whatcom County: As farmers and business owners they have to get creative. He requested the commission take the same approach in looking at how they meet the requirements but at the same time not hamper the citizens.
Andy Enfield, Whatcom County: Agreed with Mr. Mayberry that the Hirst case did not have good intentions.

The hearing was closed to the public.

Work Session

Commissioner Oliver asked staff what happens if the county does not move forward with this proposal.

Mr. Personius stated that the GMHB stated, in the original decision regarding water quality, was pretty specific about pointing out things in particular that the county was not doing a good enough job at. It included the county’s on-site septic self-inspection system. They suggested impervious surface limitations and made some suggestions on how to approach it. Staff decided on the approach to put a cap on the amount of impervious surfaces based on parcel sizes and zones. Through discussions with the commission staff is now proposing to get rid of the cap and do stormwater review at certain levels. The Supreme Court only rules on the water quantity issue, not the quality issue. If the county does not act on the quality issue the threat is that the GMHB will rule the county out of compliance.

Commissioner Hunter asked how do we know if there is a problem with water quality in the county and if there is a problem is it the result of impervious surfaces.

Commissioner Oliver stated they asked for that after their first meeting on this issue. They received the memo that spoke to the King County studies.

Mr. Davis stated those studies were in King County and studied urban areas that may have different soil, but without having done a study in Whatcom County it is hard to know exactly what the situation is. Relatively speaking, if we are concerned it should probably be for the areas that are more heavily populated. There are pockets of these in rural areas of the county. Roads are certainly a concern. They can’t retrofit everything but the new roads do address stormwater.

Mr. Ericson stated that everyone who spoke at the meeting stated their stormwater goes back into the soil which is exactly what the county wants. Most farms are doing what needs to be done through the requirements of other agencies. The county staff can work with farmers to see that they are doing what they need to do.

Commissioner Honcoop stated that some of the federal, state and local regulations are in conflict with the proposal. Dairy farms are required to keep manure on slabs, but the impervious surface rules won’t allow more impervious surface.

Commissioner Deshmule stated he did not know how much the county can avoid the compliance issue. Are there alternatives to the hard cap of 45,000 square feet? Are county roads really the greatest source of stormwater pollution?
Mr. Personius stated that to be clear there is no cap, only a threshold before certain things are triggered. The county has always argued, as part of the court case, that it was not a major contributor to the water quality issue. The Pollution Identification and Correction Program (PIC) has identified issues that are mostly related to fecal coliform. Those mostly don’t come off of roads and impervious surfaces.

Mr. Ericson stated there has been some studies showing a lot of the pollution is coming from roads and catch basins from commercial and industrial areas. Whatcom County does have an unusually high amount of roads per acre in the watershed.

Commissioner Blystone asked what is a “parcel” as used in the new language under 20.80. Is it the Assessor parcel of the site of the project or the legal lot of record? A lot of these farms have many parcels that make up the farm.

Mr. Ericson stated the county parcel layer is not necessarily accurate. There is the ability to bind parcels for tax purposes. The county needs to determine if it is a legal lot of record or not. Typically, on a permit, the county uses the Assessor parcel number. We don’t usually do more unless the property is being subdivided.

Commissioner Blystone wanted clarification regarding hard packed dirt roads. Are they included in the calculations?

Mr. Ericson stated they would not be included, only the access roads.

Commissioner Rowlson asked if somehow parcels with farm plans can be exempt from the rules.

Commissioner Honcoop stated there is no need to have these rules apply in all the zones in the county just to make it easier for staff.

Mr. Personius stated there are dairy farms in both the Rural and Agricultural zones. If the rules were only applied in the rural zones then there would be two different sets of standards for the guy who is doing the same thing in the agricultural zone. That is what staff is trying to avoid.

Commissioner Honcoop stated the GMHB decision did not mention any zones other than the rural zones so why are we taking it beyond that? The farmers are going to be hitting triggers under other rules. We need to focus on the smaller parcels.

**Commissioner Honcoop moved to recommend the regulations apply only in the Rural and Residential Rural zones.**

**Commissioner Rowlson seconded.**

Mr. Davis stated that rather than going back to the original proposal it may be possible to reword it in the supplementary requirements so it only applies to the rural zones.
Commissioner Oliver stated from what she has heard farm plans deal extensively with water quality. Rather than limit the zoning perhaps exempt those properties that have farm plans. The county did not seem to be in favor of that when brought up before.

Mr. Ericson stated there are a variety of farm plans. Some more complex than others. He had no objection to the idea that properties be exempt if covered by a farm plan.

Commissioner Oliver stated she did not think there has been adequate work done with the farming community. We need to take more time to examine the issue before making a decision.

Commissioner Knapp asked if any research has been done regarding how other counties have dealt with this issue.

Mr. Ericson stated most of the counties simply follow the stormwater manual. They don’t have the thresholds like we have proposed.

Commissioner Hunter stated from what he had heard these regulations will really have no impact on large farming operations. It will have an impact on the smaller farms. He was not uncomfortable with having a consistent plan throughout the county that turns out to be more regulatory with regards to small places. It just needs to be implemented consistently. Before voting on the motion he needed to know for a fact that the rules, if applied countywide, would be a significant burden on the people that are going to be regulated, primarily the large farms.

Mr. Ericson stated he has read farm plans and the majority of them have space to have 50 feet of some sort of vegetative strip. That is all that this requires. If you have winter cover over your field that counts as vegetation.

Commissioner Hunter asked for clarification that the things farmers already do would satisfy the proposal.

Mr. Ericson stated one of the issues would be that the manual does say that it has to be from an engineer to tell staff what we all know to be true. That is the major hang up with the stormwater manual.

Commissioner Hunter asked if having to pay an engineer to do that a significant amount of money.

Commissioner Honcoop said it is significant.

Commissioner Blystone stated she could not support the motion because there should be options. She did not want an option excluded in favor of an old option. She would like to see options side by side.

Commissioner Honcoop asked if there is really a problem that is seeking a solution or are we creating a problem. The farmers take better care of the land than anyone else
does, by far. Their buildings are regulated through a variety of other sources. Why put this additional burden on them? The farmer needs the ability to farm.

Commissioner McClendon stated she would vote against the motion because she wanted to see more options. She would like to know if farms covered by a farm plan can be exempted and what impact that would have. We could also up the threshold of the acreage that it applies to.

The vote on the motion failed (ayes-3, nays-5).

Commissioner Oliver stated she believed they are overdramatizing the burden that is being imposed in addition to what is already going to be imposed with the new stormwater rules.

Commissioner Deshmante thought that the 45,000 threshold may not be necessary. The public roads issue needs to be addressed. The court did not say anything about it but it would be good to see a public/private partnership to help the county improve its problem. There are a lot of private land owners along public roads. Perhaps they could help the county solve its problem.

Commissioner Blystone stated she was not against the idea of the motion she just wanted to see more options. She agreed with Commissioner Deshmante regarding the 45,000 threshold. The percentage seems to better reflect what they are trying to get at.

Commissioner Hunter was not convinced if there was an actual problem or not. Are the farms the problem or not? He does not want to see additional burden added to those doing a satisfactory job of addressing the problem of water quality. There are a variety of ways to address the issue. What is before the commission is a good framework but does need more work.

Commissioner Blystone would like staff to address the DOE letter at the next meeting.

Mr. Ericson stated staff will present this proposal to the Agricultural Advisory Committee at their next meeting for their input on the issue.

File #PLN2017-00007: [item omitted from this copy - not related to impervious surface item]

The meeting was adjourned at 9:20 p.m.

Minutes prepared by Becky Boxx.

WHATCOM COUNTY PLANNING COMMISSION ATTEST:
RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION
March 23, 2017

Regular Meeting

1
2
3
4 Nicole Oliver, Chair

Becky Boxx, Secretary
Call To Order: The meeting was called to order, by Whatcom County Planning Commission Chair, Nicole Oliver, in the Whatcom County Northwest Annex at 6:30 p.m.

Roll Call
Present: Natalie McClendon, Gary Honcoop, Nicole Oliver, Michael Knapp, David Hunter, Kelvin Barton, Andy Rowson, Atul Deshmane
Kate Bystone in attendance at 6:45 p.m.

Staff Present: Mark Personius, Ryan Ericson, Gary Davis, Jessie Roberts

Department Update
Mark Personius updated the commission on the following:
• the County Council schedule
• the Planning Commission schedule

Open Session for Public Comment
There was no public comment.

Commissioner Comments
There were no commissioner comments.

Approval of Minutes
April 13, 2017: Commissioner Oliver changed page 4, line 23 to read: 14th meeting of the Point Roberts Community...

Commissioner Rowson moved to approve as amended. Commission Deshmane seconded. The motion carried.

Public Hearing
File #PLN2016-00013: Proposed amendments to the Whatcom County Code Title 20 Zoning, adding standards for cumulative impervious surface coverage, amending the definition of impervious surface, and amending references to stormwater standards, in addition to amendments to the Whatcom County Comprehensive Plan Policy 2DD-2.C to amend references to WCC Title 20 Zoning.

Gary Davis gave an overview of the process to date.

At first the proposal from staff was to place a cap on cumulative impervious surfaces within the Rural and Residential Rural zones. After some discussion the Planning Commission had considered it be placed in the stormwater code. Staff came back with
the proposal that instead of being a cap it would be a threshold for requiring when the
stormwater manual be used. That would be placed in the stormwater section which
would affect all zones. This raised concerns because it would affect the agricultural
zone also. At the last meeting there was some discussion regarding several options
that could give some relief to the agricultural uses. Option 1 would be to return to the
original proposal of applying the requirement to the Residential Rural and Rural zones
only. Option 2 would replace the 45,000 square foot threshold for all parcels over three
acres with a threshold that increases based on a percentage of the parcel size. Option
3 would exempt uses where stormwater is managed through a farm plan. Option 4
would exempt all parcels over 20 acres. Options 2 and 4 tie the standard to the parcel
size which could make it difficult if parcels got created that were much smaller even
though they may be tied to a much larger agricultural use. The actual impervious
surface might be on the smaller parcel, which could be restrictive. Option 1 could be
accomplished as stated. Option 3 was the one preferred by the members of the
Agricultural Advisory Committee (AAC) who were present at their April 12 meeting.
Staff also recommends adding the text: For purposes of determining high intensity
land use, the calculation of cumulative impervious surface shall not include roadways
or driveways in public rights-of-way or in easements that serve other parcels to the
stormwater regulations rather than the countywide definition of impervious surface. It
would only apply to the high intensity calculations. Staff believes this would satisfy the
comment received from the Department of Ecology (DOE).

The hearing was opened to the public.

Greg Ebe, Whatcom County: A farmer and stormwater engineer. Having structures and
impervious surfaces are a necessary part of farming. The product needs to be stored
and equipment needs to be maintained. If they find they need to build they take it
very seriously. They try to minimize any impact to productive land. The proposal
contains many disincentives. In their farming activities they will probably exceed some
of the thresholds. It implies that more impervious surface means more adverse
impacts which is not always the case. They have a very clean operation. The size of
parcels can be manipulated with boundary line adjustments to be exempt. Options 2
and 4 don’t make sense.

Commissioner Rowlson asked Mr. Ebe if he had a farm plan.

Mr. Ebe stated no. Generally crop farmers do not have farm plans. Most farm plans
apply to dairies. Crop farmers are regulated by 8 to 10 different agencies already.
They also rotate crops.

Loren VanderYacht, Whatcom County: He stated he understood this issue was a result
of the Hirst decision and the Growth Management Hearings Board (GMHB). He stated
he had a solution to satisfy this. He suggested applying the limits to the UGAs. This is
where urban growth is designated and we know, as a result of the studies, that the
urban areas are where the stormwater pollution is generated. He also suggested going
to the GMHB to educate them on the efforts that are already being taken, in Whatcom
County, to clean up the stormwater. There are many groups that are working
collaboratively with the farm and agricultural community. All of the cities and UGAs are
now bound by the NPDES Phase II permit which is a much more stringent stormwater
permit. All new commercial development, regardless of where is takes place in the
county, is bound by the 2012 stormwater manual. He has had numerous conversations
with Eric Hirst, in the past month. Mr. Hirst reached out to him to speak to the North
County Rotary. He did not feel the rotary was the proper platform to have the
discussion so he has not facilitated that yet. Mr. Hirst sent him a copy of the program
that he wanted to present which is called Whatcom County Water. Why You Should be
Concerned. This was written in March 2017. It states that the nitrates and fecal
coliform are the issues to be concerned with. These are not generated by impervious
surfaces. If the GMHB knew of the efforts underway he felt that it would satisfy them.
The USGS has some new testing equipment they are using to test for fecal coliform.

Roger Hawley, Whatcom County: Farmer in the county. Crop farmers have a lot of
rules they need to abide by. They are not polluting. The impervious surfaces help keep
the water clean.

Commissioner Rowson asked Mr. Hawley if he had a farm plan and if his property was
zoned agricultural.

Mr. Hawley stated yes.

Marty Mayberry, Whatcom County: Berry farmer in Whatcom County. He has been
working on water issues for about 25 years. The rules are getting to be too much. The
cumulative effect has become too much. He supports Option 1. There is no nexus
between impervious surfaces and a farm plan. This proposal is just a way to get crop
farmers to have a farm plan. Farm plans are like all other regulations they deal with.
Farm plans can sound innocuous at first then over time they become an unworkable
situation. People are pushing certain agendas that do not work. You should go back to
the original intent of just the rural areas. The water gets infiltrated back into the
ground in agricultural areas. We all know the stormwater pollution comes from the
cities, not agricultural impervious surfaces. Regarding the Hirst decision, we keep
getting told we have to comply. There seems to be selective compliance. If we agree
with it we comply. Many people in the community would be willing to defy federal law
on issues like immigration. Another is marijuana laws. Why aren’t we complying with
the federal law on that? When it comes to water we don’t push it because we don’t
want to. Nobody is saying this water issue is wrong and it’s hurting people.

Commissioner Rowson asked if he had a farm plan and his property is zoned
agricultural.

Mr. Mayberry stated he had a farm plan and most of his property is zoned agricultural.

Paul Sangha, Whatcom County: Agreed with the previous speakers. They have a lot of
good points.
Rob Dhaliwal, Whatcom County: Stated he has not seen any data showing this is an issue. This is just another burden on the farmers. He supported Option 1. Staff stated, at a previous meeting, that it is the small parcels that are causing the issues. He does not have a farm plan. He is a berry grower. There is no purpose for a farm plan for a crop grower. They are managed by other agencies. Pesticides, fertilizers, etc. are not cheap and farmers do not waste them just to contaminate the fields. The data he has seen shows that the water quality is getting better. The Drayton Harbor shellfish beds were reopened because of good management practices. The farmers do not want to destroy the land because they want to be able to continue to farm and for their kids to be able to farm.

Fred Likkel, Whatcom County: Executive Director of Whatcom Family Farmers. There needs to be more discussion with the ag community regarding this issue. What is the economic impact to this? That is a big concern to the farmers. He is in favor of Option 1. There needs to be an analysis of how many farms are in the rural zones versus the agricultural zones. If there is only a small amount of farming in the rural zones then Option 1 could very easily be the best option or perhaps a combination of Options 1 and 3. At a recent Drayton Harbor Shellfish meeting he was asked to examine all of the regulations that are negatively affecting agriculture that are keeping people from farming the way they need to and keeping people from reporting things that they don’t dare say anything about because they are afraid of what will happen to them. He would hate to see these proposed regulations put on that list.

Brad Rader, Whatcom County: Was disappointed the staff did not do the due diligence he had suggested. The farmers are more organized than they ever have been. They have agencies in which the county can make one phone call to and get the farmers together to talk. That is what the county should do to find out the costs of this. When someone calls a staff person at the county please call them back. Follow up is important. He does not have a farm plan. He supported Option 1. Crop farmers do not need farm plans. Tell the farmers if you are not going to listen to them, don’t just push through.

(Name not stated) One of the things that needs to be considered, regardless of what option you go with, is exempting switching from one type of impervious to another. That shouldn’t trigger anything. If the type of service pushes you into having to spend one half a million dollars it won’t happen. Having impervious surface can be vital to your ability to continue to farm.

Carole Perry, Whatcom County: The commission was presented with where the data came from. It was done in King County which is not Whatcom County. Many of the commissioners come from a planning background so that is your focus. You represent districts and the people in those districts. Regardless of your training it is more important that you listen to the people. It was disappointing to her that county government isn’t listening to the people. The farmers have taken about all they can take. Please listen to them.
Todd Beld, Whatcom County: 30 years ago there was over 600 dairies in Whatcom County. Today there is under 100. Most of the reason is because it’s hard to compete in the market there in and the regulations are so much pressure on people that they are fed up. They don’t want to face what it takes to run a dairy and be in agriculture. It is the hardest job there is. Now you are trying to put regulations on the rest of the agricultural community. This is the most ridiculous thing he has ever heard of. He was affected by the Hirst decision. Who is thinking this stuff up and putting it in front of the county? None of the farmers are in favor of this nonsense. The commission should listen to them. How can we have instream flow when the sediment is constantly filling the river because it can’t be dredged because it kills the fish? We have an unattainable amount of rules.

Max Perry, Whatcom County: Planners like paperwork. He attended the last Agricultural Advisory Committee meeting. There was not a quorum and only one farmer in the group. These committees don’t represent most people.

Kevin Price, Whatcom County: Does not agree with any of the proposals. This just adds more paperwork. His farm has a nutrient plan which is already a lot of work. There needs to be more education so people can see what is being done already.

Dave Onkels, Whatcom County: Stated those in the room need to be aware of what is happening when their backs are turned. This process is about the petitioners in the Hirst case. They were careful to build a case about the effects of impervious surface on stormwater quality. The GMHB is not cautious about what is put in the record. The appeals that occur afterword have to be based on that record. The county is reacting to what is in that record and what the petitioners, in the eyes of the GMHB, established during that hearing. He does not agree with more restrictive stormwater regulations but they have to reflect what is in that record. It is important to pay attention all the time because the petitioners don’t have the farmers interests in mind or the interests of the citizens of Whatcom County.

Tony Larsen, Whatcom County: Representing the Whatcom Business Alliance (WBA). The GMA was passed in 1990. When it was passed they had 13 goals in mind. Later they added another. In those goals they did not ask municipalities and counties to weight one over the other. One of the goals is environmental protection which everyone understands is vitally important. Also economic development is another piece of the GMA. The reason there is pushback on this proposal is because many people believe this is a threat. People have talked over and over about the cumulative effect of these rules. When you are making a decision there needs to be data. There is always a balance to these things. One of the things missing from this is the data on the economic impact. What impact is there when we start harming our farmers? The WBA is working with Western Washington University on an economic impact study of the farming industry in Whatcom County. Something that is never mentioned is that when farming is discussed it’s not about farmers and tractors; it’s also about logistics such as transportation, storage, manufacturing, etc. There is no reason to rush this. Slow down and make sure you have all of the information.
The hearing was closed.

Commissioner Honcoop moved to return to the original proposal (Option 1) of applying the requirements to the Residential Rural and Rural zone only and incorporate Option 3 which states the parcel is exempt when stormwater is managed through a farm plan and by noting in the stormwater standard of 20.80.630 that the threshold applies to the R and RR zones only.

Commissioner Barton seconded.

Commissioner Blystone asked how many farmers were in attendance at the Agricultural Advisory Committee meeting when they made their recommendation.

Mr. Davis stated he did not make record of that. The four options were presented to them, they discussed it and gave their input.

Commissioner Blystone stated her concerns about who was in attendance at that meeting and the general recommendation they made which may not accurately reflect the farming community.

Mr. Davis stated there was not a quorum so they could not take official action but those in attendance came to that consensus.

Commissioner Blystone asked what the consequences are of defying the Hirst decision.

Mr. Davis stated there were two issues involved in the Hirst decision. One was the water availability issue which is the exempt well issue. The other is the water quality issue. The decision stated the county did not have what is required, by GMA, in terms of having adequate measures to provide water quality. They issued a series of suggestions based on what was in the record. The county has done some things already. The stormwater manual was put into effect in October 2016 among a few other things. A cumulative impervious surface code was one of the suggestions. As far as consequences go, if the county goes without being in compliance for a long time and the GMHB thinks we aren’t making progress they could find invalidity which means the state says this particular part of your regulations are invalid and we could not enforce those. That puts things into limbo. At the extreme level there are sanctions. He did not believe that has ever been carried through on a county in the state. Sanctions could include things such as withholding tax revenues, etc. Being out of compliance does have some consequences because there are some state grants that we may not be eligible for.

Commissioner Knapp asked if there is any combination that would get the county into compliance.

Mr. Davis stated we don’t know what the exact combination is. We don’t always know what the GMHB is going to find in compliance and what they aren’t.
Commissioner Knapp asked if it would be in their best interest to try to figure out what pieces of this would get us closest to compliance.

Mr. Davis stated it is hard to do.

Commissioner Honcoop stated the damage done to the economy by this can far exceed the grants that may not have been obtained while not in compliance. Policy should be balancing the needs of regulators and the citizens. The new stormwater regulations require agricultural projects, over 20,000 square feet, to meet the DOE stormwater manual. Most of the agricultural industry has not experienced this yet. There seems to be a perception that the farmers have very little stormwater regulations the way it is right now. That is not the case. There is another regulation under consideration by the council right now and will pass in some fashion is the Critical Areas Ordinance. What left the Planning Commission had larger buffers, stricter runoff requirements, expansion limitations, etc. The dairy farmers are under the new CAFO rules, which are significantly stricter than what they had before and they have been appealed as not strict enough. The CAFO rules are in many ways going to conflict with the DOE stormwater manual. The Planning Commission needs to stop and look at these current regulations and give them a chance to work. Don’t burden them with another one. The cumulative square foot area is going to have tremendous impact on farms. There is the perception that the farmers and that stormwater are not regulated but they are.

Commissioner Deshmune stated he heard several comments that stormwater in the agricultural zone is not an issue of concern because it is being handled through other programs. It was stated stormwater runoff is not an issue. How does staff see that?

Mr. Davis stated that it is correct that the smaller parcels have more of an impact. The pattern of high density in an area is the concern. Sometimes parcels have been divided down to very small sizes even in the agricultural areas.

Commissioner Rowlson stated he was surprised to see Option 3 recommended because he had heard in previous meetings that farm plans aren’t used that often. It would solve the problem for only a few people. What the Agricultural Advisory Committee thought does not match what we have learned over the course of time.

Mr. Ericson stated farm plans mean different things to different types of farming.

Commissioner Rowlson asked what type of plan Option 3 refers to.

Mr. Ericson stated it refers to any local, state and federal program that manages runoff of stormwater in some capacity.

Commissioner Rowlson liked parts of each option but he would like it get back into the box that it was originally in.

Commissioner Hunter stated it is unfortunate that people mistakenly perceive the purpose of the Planning Commission. There is no conspiracy to impose more and more
regulations on farmers. Part of the reason the commission looked at trying to change
this was there was concern that people were already doing things and that by what
was being proposed at the time it would impose more regulations on top of what they
were already doing. It was an attempt to step back from that. This issue has been
going on for two months. There has been ample opportunity for people to come and
present what they perceive as their actual financial consequences for this. It’s not that
we aren’t willing to listen to that, it’s that the public has never brought that to them.
He perceived that the farming community feels there is going to be significant financial
consequences, which he was not disinterested in, but has no way of knowing if that is
true. It is not simply petitioners in the Hirst matter because respondents also present
evidence. It was not clear to him if these regulations are necessary or not. He was not
sure if the regulations are hitting the points that need to be hit. It is all guess work on
our part as to how much and what we need to do. We need to do what we can in order
to make a difference in water quality in the county. He was not convinced this proposal
will do that.

Commissioner Blystone asked how stormwater is dealt with in the UGAs.

Mr. Ericson stated the stormwater manual is automatically applied in the UGAs.

Commissioner Blystone stated her concern with Option 3 is that she does not
understand how they deal with impervious surface. She asked for more clarification.

Mr. Ericson stated farm plans do deal with impervious surfaces and effective
monitoring is happening through the Whatcom Conservation District.

Commissioner Blystone stated she was frustrated with the proposals in front of the
commission. She agreed with Commissioner Hunter’s comments. She felt Option 1 was
the best choice. She did not see how Option 3 fits with Option 1. The areas of concern
are the rural areas and the UGAs. She also was not in favor of Option 2 because the
45,000 square foot threshold seems like a blunt instrument.

Commissioner Deshane stated he was concerned about the complexity of regulations.
We need to be able to support the smaller size farms that are in Whatcom County.
They are beneficial to the county in many ways. He was concerned with Option 3
because there is not clear language regarding farm plans.

Commissioner Honcoop stated the way Option 3 is written provides a choice for the
farmers. It is not something that is being forced on them. If they don’t want to have a
farm plan they can simply follow the stormwater manual.

Mr. Davis clarified how Options 1 and 3 would work together. They could be done
simultaneously. In the agricultural zone the cumulative threshold would not be in
effect. It would only be the stormwater code as it is now and farms in the Rural and
Residential Rural zones are the ones that would be affected.
Commissioner Rowlson asked if it would make sense to add some version of Option 4 to the mix.

Mr. Davis stated the smaller parcels are the ones they are most concerned about, not the large parcels.

Commissioner Rowlson asked if the farms in the rural zones are typically large or small.

Mr. Davis stated there are some large farms in the rural areas.

Commissioner Blystone moved to amend the motion to add: Application of the stormwater manual is not required where a county, state or federally approved farm plan, or equivalent document demonstrates stormwater is already being effectively managed to the standards equivalent to an NPDES Phase II permit.

Mr. Ericson suggested it read: NPDES “area” instead of “permit”. He also suggested it read: equivalent to the standards in the stormwater manual.

Commissioner Blystone agreed with the second part of Mr. Ericson’s suggestion. The language was too vague as it was originally written.

The motion failed for lack of a second.

Roll Call Vote on the main motion: Ayes-Barton, Blystone, Deshmane, Honcoop, Hunter, Knapp, McClendon, Oliver, Rowlson; Nays-0; Abstain-0; Absent-0. The motion carried.

Unfinished Business

Commissioner Rowlson stated Boarding of Horses can be removed from the Pending Business Items as it has been taken care of.

The meeting was adjourned at 8:46 p.m.

Minutes prepared by Becky Boxx.

WHATCOM COUNTY PLANNING COMMISSION ATTEST:

______________________________  ______________________________
Nicole Oliver, Chair            Becky Boxx, Secretary
WHATCOM COUNTY
PLANNING COMMISSION

Impervious Surface Amendments

FINDINGS OF FACT AND REASONS FOR ACTION

1. Whatcom County Planning and Development Services has submitted an application for amendments to WCC Title 20 Zoning to establish cumulative impervious surfaces.

2. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on January 25, 2017.

3. Notice of the subject amendment was submitted to the Washington State Department of Commerce on January 5, 2017.


5. The Planning Commission held a public hearing on the proposed amendments on January 26, March 9, March 23, and April 27, 2017.

6. The Growth Management Hearings Board and Washington Supreme Court have found Whatcom County’s Comprehensive Plan to be out of compliance with the Growth Management Act in that its rural element lacks measures to protect water quality and availability in rural areas. The Board suggested impervious surface limits as a possible measure the County might adopt to protect water quality.

7. The Whatcom County Comprehensive Plan adopts by reference County Code provisions related to water resources under Policy 2DD-2.C. Revisions to the County Code are therefore also revisions to the Comprehensive Plan. The amendments propose adding Policy 2DD-2.C.10 to adopt by reference the new impervious surface standards proposed in WCC 20.32.500 and 20.36.500.

8. On October 11, 2016 the County adopted Ordinance 2016-045 revising the County’s stormwater regulations and integrating low impact development principles and best management practices into
the County’s development regulations in order to meet the state’s 2014 NPDES Phase 2 Permit requirements.

9. The purpose of the proposed Zoning Code and Comprehensive Plan amendments is to resolve an appeal of the Comprehensive Plan filed with the Growth Management Hearings Board. Comprehensive Plan amendments may be considered outside the annual concurrent review of Comprehensive Plan amendments per WCC 2.160.010D.

10. WCC 2.160.080 provides approval criteria for Comprehensive Plan amendments.

11. Whatcom County Comprehensive Plan (WCCP) Policy 10H-8 states: “Strongly incentivize the use of low impact development strategies. Minimize the amount of impervious surface whenever practicable by using natural engineering design methods such as the use of open, grassed, street swales and rain gardens instead of curbs and gutters. Where feasible, encourage alternate surfacing options and other techniques associated with low impact development.”

12. WCCP Policy 10H-12 states: “Amend subdivision, zoning, and other land use regulations and design standards to encourage that land use activities minimize the amount of impervious surface.”

CONCLUSIONS

1. The amendment regarding impervious surface limits in rural zoning districts is in the public interest.

2. The amendments are consistent with the Whatcom County Comprehensive Plan.

3. The Comprehensive Plan amendments meet the approval criteria of WCC 2.160.080.

RECOMMENDATION

Based upon the above findings and conclusion, the Whatcom County Planning Commission recommends approval of the proposed amendments as shown on Exhibits A and B.
COMMISSIONERS present at the April 27, 2017 meeting when the vote was taken:
Kelvin Barton, Kate Blystone, Atul Deshmane, Gary Honcoop, David Hunter, Michael
Knapp, Natalie McClendon, Nicole Oliver, and Andy Rowlson.

Vote: Ayes: 9, Nays: 0, Abstain: 0, Absent: 0. Motion carried to adopt the
above amendment.
I have reviewed the new impervious surface rules intended to achieve compliance with the Hirst case. I assume this is not the county’s complete response to its obligation to achieve GMA compliance as it does not address the county’s obligation to determine water availability under prior appropriation rules. Will there be an attempt to craft a water budget, following up on the groundwater work and studies done in 2012 and 2013?

Given the state of Whatcom County waters, in terms of quality and quantity, more stringent standards are necessary to comply with the Hirst case and most importantly to protect public health and safety. Doing too little too late, under a court compliance order, while giving in to the tremendous pressure exerted by special interest lobbyists groups for agriculture and development community is what helped create our water problems. We need to do more than we have been doing and we need to give the staff the ability to more readily say "no" to special interests.

More Specifically:

I vehemently oppose any attempt to relax application of impervious or storm water rules when a farm plan is in place:

- Farm plan secrecy will prevent the release of information to the public. As a member of the public, I have an inherent right to know that regulations in place for health and safety are adequate and are enforced. That is why is it crucial to have farmers waive farm plan secrecy as precondition of the privilege of having a farm plan. Any thing that becomes part of a farm plan loses its transparency and accountability, while the county has enforcement problems that are well known. This is not a good combination. (And if staff tells you they can not waive farm plan secrecy, that is inaccurate. It specifically is allowed under RCW 42.56.270.

- Farm plans and farm management of stormwater runoff is not adequate or protective of our surface and ground waters and this has been known for over 30 years. Of the 12 Washington State Puget Sound Districts, Whatcom County has the greatest concentration of dairy cows, with 53% of the total, or over 45,562 animals (USDA, 2012), within its boundaries. Due to land use changes and population pressures, the Lower Nooksack Sub-basin has a heavily impacted floodplain, high nitrates in groundwater, elevated fecal coliform levels in surface waters, and poor riparian conditions throughout the Nooksack River and most of its tributaries. Department of Ecology’s (Ecology) current (2012) 303(d) list of impaired waters shows that there are 34 stream and river segments in the watershed that are above acceptable limits for, among other things, fecal coliform. The Ecology Nooksack River Watershed TMDL (Hood,
2002) plan lists the improper application of manure to agricultural fields as a potential, significant source of fecal coliform to the watershed. The discharge of fecal coliform into local harbors and bays has led to a significant history of shellfish bed closures and reopenings, which has had a detrimental effect to Tribes and commercial harvesters.

- By the end of 2015, approximately 80% of the freshwater sampling sites in Whatcom County were not meeting the standards for fecal coliform bacteria. A review of the testing sites indicates the problems are connected to watersheds with agricultural activity, the most prominent one being Drayton Harbor. While Drayton Harbor is claimed as a "success story" because it was subject to partial reopening of shellfish beds, while its primary tributaries, California Creek and Dakota Creek reflect some of the highest E. coli contamination levels in the county. [http://www.whatcomcounty.us/2170/Water-Quality-Monitoring-Results; http://www.whatcomcounty.us/DocumentCenter/View/2767](http://www.whatcomcounty.us/2170/Water-Quality-Monitoring-Results; http://www.whatcomcounty.us/DocumentCenter/View/2767)

- The activities conducted on farms, creating ditches and culverts and tiling, prevent groundwater recharge and promote storm water run off that carries manure, herbicides and toxic chemicals indicating a need for the most stringent of regulations.

There is no justification and no science that supports different threshold standards for large lots and small lots that I am aware of. Is this something that staff can provide? The issue is not one of size, but one of use and activity. An undeveloped, fully forested lot should be treated differently than a cleared and graded lot that has modified the natural hydrology and infiltration capacity of the land. We should be focused on the whether the land is ecologically functional. That is the true test of how well we will be protecting our waters.


What criteria and standards will the county use to establish it is protecting county waters? How will this be quantified and monitored? Why are we only currently testing water for fecal coliform? How about nitrates and pesticides, herbicides, fertilizer, and farm chemicals? Has anyone considered the impacts that all of the fire and smoke in the rural county have on water quality? This would also be something appropriate for testing. Why aren't we testing for temperature and oxygen levels for the survival of anadromous fish? These nuts and bolts questions are what makes or breaks a good regulation.

I also oppose the attempt to get around the DOE requirements to include driveways as impervious surfaces by moving this provision to a different section.
Again, it was these kinds of tactics that caused such grave harm to county waters. It is time to stop trying to game the system and get serious about protecting and restoring our watershed ecosystems, particularly things like wetlands and critical aquifer recharge areas that play such an important role in protecting functions and values, and promoting ecosystem benefits.

The comp. plan language is rather weak and subjective and does not create any mandatory standards. It is possible it will have little actual impact. It might be a more effective approach to strengthen the comp. plan language and also include specific, mandatory regulations in the critical area ordinance undergoing current council review.

I think the new rules should more specifically refer to the "2012 Stormwater Management Manual for Western Washington, as Amended in December 2014" (The 2014 SWMMWW) for clarity and to avoid confusion. There is also reference to a comment letter from DOE that I did not see listed in the comments. Could this please be posted for public review?

In conclusion, best available science indicates that degradation and sometimes irreparable harm happens once the cumulative impervious surface of a watershed ecosystem exceeds 10%. The standards in this proposal do not reflect BAS. They start out with 10%, but quickly digress into numerous mutations. Why not just stay at 10% and keep it simple and effective? This is a good start, but it needs to go further in protecting our critical areas, ecosystems and surface and ground water from continuing degradation. To date, none of our efforts have achieved this, so let's try it straight, without any loopholes.

Sincerely,
Wendy Harris
Memorandum

TO: The Honorable Jack Louws, Whatcom County Executive
The Honorable Whatcom County Council

FROM: Gary Davis, AICP, Senior Planner

THROUGH: Mark Personius, AICP, Assistant Director

DATE: July 11, 2017

SUBJECT: Impervious Surface Code Amendments

Proposed amendments involving impervious surface standards were discussed at the June 13 Planning and Development Committee meeting, and are scheduled for a public hearing at the July 11 County Council meeting. Staff’s memorandum of June 30, 2017 discusses the draft amendments recommended by the Planning Commission following four public hearings between late January and late April (page 164 in the July 11 agenda packet). In the past few days Futurewise and the attorney for the “Hirst” petitioners have submitted to the County Council their first comments and suggestions (July 10 and 7, respectively). One of the Hirst petitioners, Wendy Harris, individually submitted a comment before the last Planning Commission hearing (page 228 of the packet). Staff would like to respond to the recent comments.

These comments suggest different actions. The Futurewise comment (p. 2) suggests limiting impervious surfaces to 20% of a lot, while the Hirst petitioners (including the individual Harris comment) suggest allowing no more than 10% impervious surface over the watershed area.

As staff discussed with the Planning Commission, staff did not suggest an across-the-board percentage for several reasons. First, on larger rural parcels, permissible impervious surface would be very high. For example, 10% of a 40 acre parcel would be four acres; 20% would be eight acres. Second, on smaller lots like those developed in the higher density Residential Rural (RR) zone or nonconforming small lots in the Rural (R) zone, the permissible impervious surface would be very

1
restrictive. At 10%, for example, on a 1/3 acre lot, a house, garage, driveway, and patio could not total more than 1,452 square feet in total area.

As discussed on June 13, when impervious surface limits were first discussed in 2012, staff studied aerial photos of 24 sample rural lots to estimate what level of impervious surface is common in the rural area (see June 13 presentation, attached). The percentages ranged from 6% to 36%, with the smaller lots – three acres or less – typically seeing the highest percentages. This is why staff proposed a “sliding scale” threshold, allowing for established rural residential development patterns, but applying a ceiling so larger parcels would not be allowed an excessively high amount of impervious surface. Another reason staff suggested the sliding scale is that it corresponds with the sliding scale regulations for lot coverage (structures) in the R and RR zones, which was reduced to 20% with a ceiling of 25,000 square feet in 2012.

The Hirst comment (page 6) quotes Gary Davis at the January 26 Planning Commission meeting discussing the Booth study. He was referring to the following passage in the study (emphasis added):

Hydrologically and biologically, there are no truly negligible amounts of clearing or watershed imperviousness, even though our perception of, and our tolerance for, many of the associated changes in downstream channels appear to undergo a relatively abrupt transition. Almost every increment of cleared land, and of constructed pavement, is likely to result in some degree of resource degradation or loss. The decision of how much is ‘acceptable’ is as thus as much a social decision as a hydrologic one.¹

The 5% - 10% may originate with wording from the 1997 May study, referring to a range within which conditions changed most rapidly:

Results of the Puget Sound Lowlands study have shown that physical, chemical, and biological characteristics of streams change with increasing urbanization in a continuous rather than threshold fashion. Although the patterns of change differed among the attributes studied and were more strongly evident for some than for others, physical and biological measures generally changed most rapidly during the initial phase of the urbanization process as %TIA above the 5-

¹ Derek B. Booth, "Forest Cover, Impervious-Surface Area, and the Mitigation of Urbanization Impacts in King County, Washington, 2000, p. 15
10% range. As urbanization progressed, the rate of degradation of habitat and biologic integrity usually became more constant.  

Lacking a clear threshold below which water quality is certainly protected, and above which it is not, staff and the Planning Commission, through the public process, developed standards that reflect established development patterns but prevent excessive impervious surface on large lots that would be allowed by straight-line percentages. These thresholds are part of a larger effort to bolster the County’s water quality protection measures, which includes recent adoption of low impact development standards and expansion of stormwater regulations (Ord. 2016-045).

The Hirst comment’s contention that “this ordinance will allow much more than 35% of the Rural area to be covered by impervious surfaces” is incorrect. For parcels larger than three acres, the 45,000 square foot ceiling would not allow impervious surfaces to cover 35% without use of the stormwater manual. As staff mentioned in its presentation on June 13 (slide 11, attached presentation), staff calculated the maximum cumulative effect of the proposed thresholds in the R and RR zones countywide. The maximum theoretical impervious surface that could be permitted without use of the stormwater manual is about 14%, though within some watersheds where smaller lots exist, the potential was higher than the county average, but still well below 35% (see calculation totals, attached). Lots in rural commercial zones are not affected by the proposed impervious surface standards, but all rural and urban commercial development is considered a “high impact” use in 20.80.630 (p. 175 of the packet) and is therefore subject to the requirements of the stormwater manual.

Regarding the comments made by Mark Personius according to the Planning Commission minutes (p. 7 of the Hirst comment), in the context of the March 9 meeting Mr. Personius was responding to a general question about whether changes to impervious surface standards would satisfy the hearings board, and whether other options have been considered. On the recording, after Mr. Davis responded that staff can’t predict the outcome of a hearings board ruling, Mr. Personius said, referring to the option of imposing impervious surface limits in general, “To follow up on your question Mr. Knapp, this case has been going on for so long, a couple of years now. We had some discussions with the appellants, a

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couple of years ago about a potential settlement options on water quality and this is what they said would satisfy them.”

The minutes of the March 23 meeting condensed Mr. Personius’ comments on the Supreme Court ruling. On the recording, in response to a question on what happens if the county does not move forward with the impervious surface proposal, he said:

The GMHB, in the original decision on Hirst, on the water quality stuff, was pretty specific about pointing out things, in particular, that the county was not doing a good enough job at which was protecting water quality in rural areas. That included, for example, the County Health Department’s on-site septic self-inspection system. They pointed out, specifically, in this case, impervious surface limitations and suggested putting a cap on impervious surfaces, which other counties have done, based on certain parcel sizes and certain zones. Through our discussions that evolved into getting rid of the cap and just saying if you get to a point where you have, like in this case, a number of 45,000 square feet then you would have to do a level of stormwater review and design. That is two different ways of addressing the same problem. They simply pointed out that these are things the county could do to get into compliance. When the county appealed that decision to the Court of Appeals they did not make any ruling on the water quality portion of the decision. They sent it back to the board. When the appellants appealed the decision to the Supreme Court they said the same thing: they made their decision on water quantity issues, on the permit exempt wells, but the water quality stuff they just kicked back to the GMHB. We did not get any additional guidance either from the Court of Appeals or Supreme Court. Because the courts did not speak directly to water quality there has been no discussions or bills proposed at the legislature to address the water quality portion. It has all been about the exempt well issues. If we don’t do anything the threat is the GMHB may find we have not done enough. If they feel we haven’t then we stay out of compliance and get an order to go back and do it again.

The Hirst comment (p. 5) says the amendment to Comprehensive Plan Policy 2DD-2.C.4 (bottom of p. 177 in the packet) removes references to water quality measures of the zoning code. It would not have that effect. The policy would still adopt by reference WCC 20.80.630-.635, the stormwater standards. Zoning code sections 20.32.656, 20.36.656 and others would only be references to 20.80.630 -.635 (p. 169-170 in the packet). It would not be necessary for the Comprehensive Plan to adopt those sections by reference, as long as it adopts the actual stormwater regulations in 20.80.630 -.635. If the County Council wishes to clarify that all these code sections are adopted into the Comprehensive Plan, Policy 2DD-2.C.4.a.-l could be retained.

Finally, the Hirst comment (bottom p. 5) points out that applying the 45,000 square foot ceiling on parcels 3 acres or larger (top of p. 176 in the packet) results in a
situation where parcels slightly smaller than three acres would have a threshold of up to 45,738 square feet (1.64% higher than 45,000). Mathematically it is true that the parcel size where 35% of the parcel equals 45,000 square feet is 2.95159386 not 3 acres. In the draft code amendment, staff rounded the number up to 3 acres for clarity, but if the Council wishes to change that acreage amount to 2.95159386 to correct this error, or adopt alternative wording, staff would not oppose.

If you have any questions, please call Gary Davis, Senior Planner, at extension 5931.

Attachments:

Maximum impervious surface threshold calculation
June 3, 2017 presentation
### Maximum Impervious Surface Threshold Calculation – R, RR Districts

<table>
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<tr>
<th>Row Labels</th>
<th>Parcel Size Sum of SQF</th>
<th>Max Impervious Surface per Proposed Threshold Sum of MAX IMP SFC</th>
<th>Avg</th>
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<td>LAKE WHATCOM</td>
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<td>13.5%</td>
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<tr>
<td>UPPER MAINSTEM NOOKSACK</td>
<td>378,381,088</td>
<td>46,223,759</td>
<td>12.2%</td>
</tr>
<tr>
<td><strong>Grand Total</strong></td>
<td><strong>5,214,523,978</strong></td>
<td><strong>738,528,544</strong></td>
<td><strong>14.2%</strong></td>
</tr>
</tbody>
</table>
Impervious Surface Amendments

June 13, 2017

Whatcom County Planning and Development Services
“The record shows that the County has many options for adopting measures to reverse water resource degradation in its Rural Area through land use controls. As is discussed by state agency reports and the County's own Comprehensive Plan, the County may limit growth in areas where water availability is limited or water quality is jeopardized by stormwater runoff. It may reduce densities or intensities of uses, limit impervious surfaces to maximize stream recharge, impose low impact development standards throughout the Rural Area, require water conservation and reuse, or develop mitigation options. The County may consider measures based on the strategies proposed in the Puget Sound Action Agenda, the WRIA 1 process, WDFW's Land Use Planning Guide, Ecology's TMDL or instream-flow assessments, or other ongoing efforts. It may direct growth to urban rather than rural areas.”

GMBH Case No. 12-2-0013 FDO June 7, 2013
Draft Ordinance:

- WCC 20.80.630: In Rural (R) and Residential Rural (RR) zones only, the “high” intensity category, requiring use of stormwater manual, would include projects that result in the parcel having an cumulative impervious surface exceeding 10,000 sf or 35% of gross parcel size, whichever is greater (less than 3 acres) or exceeding 45,000 square feet (3 acres or more) – packet p. 133-134

- Stormwater manual not required with farm plan or equivalent – note 3, p. 132

- Clarifying language for Lake Whatcom Watershed – packet p. 128-129

- WCC 20.32.656, 20.36,656: References to 20.80.630 for stormwater requirements in R and RR zone chapters – p. 127

- Updates to references in Comprehensive Plan Policy 2DD-2.C – p. 135
**Option 1:** Apply the requirements to the Residential Rural (RR) and Rural (R) zones only.

**Option 2:** Replace the 45,000 square foot threshold for all parcels over three acres with a threshold that increases based on a percentage of the parcel size.

**Option 3:** Exempt uses where stormwater is managed through a farm plan.

**Option 4:** Exempt all parcels over 20 acres.
# Whatcom County Rural Element

## Lot Coverage and Impervious Surface Estimates

### Exhibit 1

<table>
<thead>
<tr>
<th>Parcel Number</th>
<th>Lot GIS Ac</th>
<th>Lot sf</th>
<th>Imp Sfc sf 1</th>
<th>Imp Sfc %</th>
<th>Lot Cov sf 2</th>
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<tbody>
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<td>A</td>
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<th>Imp Sfc %</th>
<th>Lot Cov sf 2</th>
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<tr>
<td>G</td>
<td>380209098032</td>
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</tr>
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<td>380209146019</td>
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<td>83,200</td>
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<td>43,560</td>
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### Exhibit 4

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<th>Imp Sfc %</th>
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<tr>
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<td>91,040</td>
<td>24,000</td>
<td>26%</td>
<td>4,932</td>
</tr>
</tbody>
</table>

¹ Rough estimate by PDS staff using GIS area calculation tool on 2010 aerial imagery

² From Assessor improvement data, excluding second stories and basements, including decks
Impervious Surface

- May, Horner, Karr, Mar, Welch (1997):
  
  "Results of the Puget Sound Lowlands study have shown that physical, chemical, and biological characteristics of streams change with increasing urbanization in a continuous rather than threshold fashion. Although the patterns of change differed among the attributes studied and were more strongly evident for some than for others, physical and biological measure generally changed most rapidly during the initial phase of the urbanization process as %TIA above the 5-10% range. As urbanization progressed, the rate of degradation of habitat and biologic integrity usually became more constant."

Impervious Surface

Booth (2000):

“Hydrologically and biologically, there are no truly negligible amounts of clearing or watershed imperviousness, even though our perception of, and out tolerance for, many of the associated changes in downstream channels appear to undergo a relatively abrupt transition. Almost every increment of cleared land, and of constructed pavement, is likely to result in some degree of resource degradation of loss. The decision of how much is ‘acceptable’ is as thus as much a social decision as a hydrologic one.”

Derek B. Booth, “Forest Cover, Impervious-Surface Area, and the Mitigation of Urbanization Impacts in King County, Washington, 2000, p. 15
July 7, 2017

Whatcom County Council  
311 Grand Ave.  
Bellingham, Washington 98225  
Be email to council@co.whatcom.wa.us

Re:  Whatcom County Agenda Bill 2017-195, “Ordinance amending the Whatcom County Code Title 20 Zoning and the Whatcom County Comprehensive Plan relating to cumulative impervious surface coverage standards.”

Dear Chair Buchanan and Whatcom County Council Members:

Introduction

The Washington State Supreme Court upheld the Growth Management Hearings Board’s (“Board’s”) determination that the County’s Comprehensive Plan (“CP”) fails to meet the Growth Management Act (“GMA”) requirement to “include measures that apply to rural development and protect the rural character of the area, as established by the county, by . . . [p]rotecting surface water and groundwater resources.” RCW 36.70A.070(5)(c).

The Court specifically “affirm[ed] the Board’s ruling that the County’s rural element fails to comply with the requirement to protect water quality.” The Board emphasized that “[l]ocal land use plans and regulations must seek to avoid groundwater contamination as well as managing surface water runoff to prevent pollution of Puget Sound.” Hirst et al. v. Whatcom County, Case No. 12-2-0013, Final Decision and Order, June 7, 2013 (“FDO”) at 22-23.

The Board found substantial evidence of water pollution resulting from the absence of effective land use planning containing measures to protect water resources. FDO at 34-35. It provided the County with the relevant scientific standard for limiting impervious surfaces in the Puget Sound, quoting a Washington Department of Fish and Wildlife report that states: “Recent research in western Washington has determined that measurable degradation to downstream aquatic habitat occurs where impervious cover exceeds 5-10% and native forest cover is reduced to less than 65% of watershed area.” (For citations, see Section II, where the Board’s discussion is set forth at greater length.)

Despite the County’s very severe pollution problems, and in complete disregard of the scientific studies quoted by the Board in the FDO (set forth in Section I, below), the ordinance before you imposes no limit on impervious surfaces in the Rural area. In an ill-defined provision applicable only to residential zones in the Rural area, the Ordinance provides for stormwater mitigation
only after 35% of a "parcel" – or more, if 35% of the parcel is smaller than the threshold of 45,000 square feet – has been covered by impervious surfaces.

This proposal is unsupported by science. It is admittedly based on "social considerations" (see Section III, below) rather than on the well-established fact that impervious surfaces adversely affect water quality. In the year 2017, it was stunning to read minutes indicating that the Planning Commission entertained arguments that Whatcom County – uniquely on the planet – is a place where increased impervious surfaces somehow have no effect on water resources.

This unfounded belief directly conflicts with the Board’s clear finding, following an extensive discussion of relevant literature, that "current science-based studies conclude that most water resource degradation in the Puget Sound region and Whatcom County in particular can be attributed to land use and land development practices." FDO at 34.

Even if you decide to disregard all of the evidence about the effects of impervious surfaces on water resources stacked up over the decades, from western Washington State, the United States, and the rest of the world, please bear in mind that the Hearings Board quoted evidence specific to Whatcom County. This evidence included (but is not limited to) the following:

“In the 2006 Bertrand Creek: State of the Watershed Report, the County and other cooperating organizations documented land use changes in the Bertrand Creek Watershed which include ‘loss of water-retention capacity of wetlands and the increase in pavement, rooftops, and other hard surfaces resulting in a “flashy watershed.” Such watersheds mean these areas reach flood stage quickly, have more pollution potential, and dwindle down to extremely low flow during the driest months.’” FDO at 27.

The effect of increased impervious surfaces on water quality and water resources is not limited to King County. Whatcom County is not somehow immune.

The Board further found:

“Whatcom County is listed with ‘impaired water bodies’ in the 2010 State of the Watershed Report, which is the U.S. Environmental Protection Agency’s report on the status of Section 303(d) of the Clean Water Act. Since 2000, Whatcom County’s “impaired water bodies” have increased from 47 to 77. Of those, only 6 water bodies have been analyzed and have had standards established for allowable total allowable pollution (Total Maximum Daily Loads (TMDLs)). The standards and policies derived from these TMDLs have not been adopted by reference as measures governing land use in the Rural Element and do not appear to be addressed in the development regulations for affected rural areas in the Ordinance No. 2012-032 amendments. In Butler v. Lewis County, the Western Board found the County was aware of an Ecology TMDL Study with recommendations for water management practices. The Board ruled the County’s failure to adopt any policies into its land use plan violated RCW 36.70A.070(1). While Butler was decided under the GMA’s mandatory provisions for the land use element, the requirements for “measures” in the Rural Element are no less specific.
The Ordinance does not address the standards and policies derived from TMDLs, and no effort was made to establish that the Ordinance would address the causes of pollution in impaired water bodies.

We ask you not to approve the attached ordinance, but instead to pay heed to the Board and to the science of watersheds, which has long recognized that increased impervious surfaces will only exacerbate Whatcom County’s existing severe water quality and quantity problems. If the County decides to allow more than the 5-10% impervious surface limit that the Board emphasized in its FDO, it should be able to support the increase with best available science. **No science** supports increasing impervious surfaces throughout the Rural area by well over 35%.

Our remaining comments are set forth in three sections:

- **Section I** includes some of the most directly pertinent evidence quoted by the Board in its FDO. We additionally encourage you to read the Board’s insightful and evidence-supported analysis of the County’s water resource problems, and of the measures that the County can and should take to protect water resources.

- **Section II** contains comments on the provisions of the proposed Ordinance.

- **Section III** includes comments and corrections to Planning Commission materials, as provided with the proposed ordinance.

**SECTION I**

Excerpt from the Board’s FDO, Case No. 12-2-0013 (June 7, 2013) at pp. 31-33: This discussion states as follows, with emphasis (language underlined) that the Board included in the original FDO. I have emphasized additional language in **bold**:

“Further information about land use planning and water resources, comes from the Washington State Department of Fish and Wildlife’s (WDFW) report “Land Use Planning for Salmon, Steelhead and Trout.” This guide recommends various land use planning strategies to assist local governments to meet salmon recovery and land use planning laws. Specifically, on urban and rural growth, the report explains:

Development in rural and urban areas is often located in low-gradient areas.... Urban growth in these riparian environments can alter land surface, soil, vegetation and hydrology by increasing the area of impervious surface. **Impervious surface area is strongly correlated with adverse impacts on stream conditions including extensive changes in basin hydrology, channel morphology, and physio-chemical water quality** (May et al. 1996; Booth 2000; R2 Resource Consultants et al. 2000)....

Implementing land use planning for salmon, steelhead and trout can avoid many impacts associated with urban and rural growth by maintaining estuarine, wetland and riparian habitats, and adjacent upland habitats, among others. For example, limiting impervious
surface in the watershed and locating development away from riparian systems (using native vegetation buffers) would improve salmonid habitat function and hence survival (May 2003; May 2009).

Further information on stormwater management shows the link between impervious surfaces and water quality degradation:

"Traditional urban and rural development practices remove forests, vegetation and topsoil, compact soils, and increase impervious surface areas, diminishing the land's ability to hold and infiltrate rainwater. The remaining water becomes stormwater runoff, rushing off impervious surfaces such as roofs, roads and compacted soils instead of infiltrating the soil column (Booth 2000). Runoff is of particular concern in regions of intense rainfall, such as glacial outwash regions surrounding Puget Sound, or limited vegetation and landscapes with thin soils, such as the arid and semiarid interior east of the Cascade Range (Booth 2000).

Recent research in western Washington has determined that measurable degradation to downstream aquatic habitat occurs where impervious cover exceeds 5-10% and native forest cover is reduced to less than 65% of watershed area (May et al. 1996; Booth 2000). Washington state agencies such as the Puget Sound Partnership and the State of Washington Department of Ecology, as well as the federal Environmental Protection Agency, have determined that stormwater runoff is the leading contributor to water quality pollution of urban waterways in western Washington State (http://www.pso.wa.gov/stormwater.php). Therefore, it is imperative that local governments manage stormwater with policies, regulations and incentive programs (e.g., Low Impact Development (LID)) to reduce and treat stormwater runoff. 20 (Emphasis added [by the Board])

Finally, the WDFW report touches on the causes of water pollution with the following analysis and suggestions:

While climate change may influence water quality over the long-term, most water quality degradation can be attributed to land use development practices. Development removes native vegetation, increases water temperatures, and compromises water quality by causing excessive runoff and stormwater discharge which washes nutrients, contaminants, and toxic materials from impervious surfaces into waterways (R2 Resource Consultants et al. 2000). Though these changes are most noticeable in streams draining highly urbanized watersheds (May et al. 1996), smaller scale development impacts are also important in less urbanized watersheds. (Emphasis added [by the Board]).
SECTION II.
Comments on the Ordinance

Overall:

The Ordinance only addresses the R and RR zones. In Rural zoning designations that are not addressed by the proposed ordinance, far greater coverage by impervious surfaces is permitted. For example, 85% of a “site” may be covered by “buildings, structures, hard surfacing, parking areas and other impervious surfaces” in the Neighborhood Commercial zone. Title 20, Ch. 20.60, section 20.60.500.

- It does not appear that any analysis has been conducted of the cumulative effect of development under these standards, which are even less limiting of impervious surfaces.
- The fact that the other Rural zoning designations allow a very high coverage by impervious surfaces should result in designations that require less than 10%, based on the scientific evidence in the record.

Page 1, Elimination of incorporation by reference into the Land Use Element: Is there a reason to remove these provisions from the Land Use Element? Perhaps the removal recognizes that the ordinance would not meet the GMA requirements for the Land Use Element, which must “review drainage, flooding, and storm water run-off in the area and nearby jurisdictions and provide guidance for corrective actions to mitigate or cleanse those discharges that pollute waters of the state, including Puget Sound or waters entering Puget Sound . . .” Without incorporation to the Land Use Element, however, it seems likely that the Land Use Element entirely fails to comply with this requirement.

Page 6: The Ordinance includes a broad, poorly-drafted provision that should be deleted or revised:

Application of the stormwater manual is not required where a County-, state-, or federally-approved farm plan, or equivalent document, demonstrates stormwater is being effectively managed.

The Ordinance does not define either “equivalent document” or “effectively managed.” No goal is provided for “effective management,” which may not be the same for the farm plan as for the GMA’s requirement to protect of rural character by protecting water quantity and water quality. It must be presumed, therefore, that the planner at the desk will exempt any application if a “document” is produced that includes the term “stormwater” or “management.” This loophole fails to protect water resources.

Page 6: The Ordinance states that “Any project that results in new hard surface . . .” The terms “project” is not defined. A “project” is not the same as a parcel.

Page 7. Please provide scientific support for the provision allowing 45,738 square feet of impervious surface to be constructed on 3-acre parcels (that is 35% of 3 acres, a larger figure than the 45,000 square feet allowed on parcels over 3 acres).
Page 8. The Ordinance states that, "For purposes of determining high intensity land use, the calculation of cumulative impervious surface shall not include roadways or driveways in public rights-of-way or in easements that serve other parcels." Please provide scientific support for the conclusion that roadways or driveways in public rights-of-way or easements are not impervious surfaces, or do not contribute — equally with other roadways or driveways — to the degradation of water resources. If no such support is available, this loophole should be eliminated.

Page 9: The deletion of all references to drainage measures in the various zoning districts removes measures to protect water quality and quantity from the CP. It is not clear why the County wants to remove these "measures" from the CP.

SECTION III
Comments and Corrections on Planning Commission Materials

Planning Commission staff report:

Page 2, lines 7-8 (Gary Davis): “These amendments would add maximum limits on impervious in the Residential Rural 8 (RR) and Rural (R) zones.”

- This statement may refer to an earlier draft, but does not accurately describe the proposed ordinance. The proposed amendments include no maximum limits on impervious surfaces.
- The amendments only require mitigation under the stormwater manual when impervious surfaces exceed 35% of the lot in some circumstances (excluding some impervious surfaces and all areas under some sort of "document" that shows that stormwater is "effectively managed").

Planning Commission Minutes, January 26th

Page 2, lines 31-37 (Gary Davis): “Is there a good threshold and hard and fast rule for what percentage improves water quality? What one of the studies found says that degradation of water quality occurs pretty rapidly, into the 5 and 10 percent impervious surface range. After that it is a judgement call... The decision about how much is acceptable is as much a social decision as a hydrologic one.”

- If this statement was intended to refer to the WDFW publication quoted in the Board’s order, it misrepresents the report. Nowhere does the report state that, once an area has greater than 10% impervious surfaces, it does not need to limit impervious surfaces because the relationship between land use policies and impacts on water quality are a “judgment call” or a “social decision.”
- As noted above and quoted by the FDO, the report emphasizes that “it is imperative that local governments manage stormwater with policies, regulations and incentive programs (e.g., Low Impact Development (LID)) to reduce and treat stormwater runoff.”
- The reason that this is “imperative” is that “[i]mpervious surface area is strongly correlated with adverse impacts on stream conditions including extensive changes in basin hydrology, channel morphology, and physio-chemical water quality.” (Quoted in the FDO.)
Planning Commission Minutes, March 9, 2017

Page 5, Lines 1-2 (Mark Personius): "Mr. Personius stated the county had conversations with the appellants and they stated this proposal would satisfy them."

- This statement is incorrect. The County has stated that it was developing an ordinance that would limit impervious surfaces, but did not describe this proposal, nor did we say that it would comply with the GMA.

Planning Commission Minutes, March 23, 2017

Page 6, Lines 18-19 (Mr. Personius): "The Supreme Court only rules on the water quantity issue, not the quality issue."

- This statement is incorrect. The Supreme Court did rule on the water quality issue. After a discussion of evidence and arguments, the Court “affirm[ed] the Board’s ruling that the County’s rural element fails to comply with the requirement to protect water quality."

CONCLUSION

This Ordinance will allow much more than 35% of the Rural area to be covered by impervious surfaces. As you know, the Rural areas is larger than the County’s Agricultural area. Covering more than a third of this very large area will harm, not help, water quality and quantity. It will ensure further stresses on endangered salmon species. It will reduce recharge of aquifers, exacerbating the County’s water shortage problems.

Please adopt measures that will protect the County’s rural character, now and into a future in which we will face climate change, increasing population, and even greater strains on our water resources.

Sincerely,

Jean O. Melious
Attorney for Eric Hirst, Laura Leigh Brakke, Wendy Harris, and David Stalheim

cc: County Executive Jack Louws  
    Ms. Karen Frakes  
    Mr. Mark Personius  
    Mr. Gary Davis  
    Mr. Tim Trohimovich
July 10, 2017

Whatcom County Council
311 Grand Avenue, Suite 105
Bellingham, Washington 98225

Dear County Council Members:

Subject: Comments on Amending the Whatcom County Code Title 20 Zoning and the Whatcom County Comprehensive Plan Relating to Cumulative Impervious Surface Coverage Standards.

Sent via email to: council@co.whatcom.wa.us; pds@co.whatcom.wa.us; kfrakes@co.whatcom.wa.us

Thank you for the opportunity to comment on the amendments to the Whatcom County Code Title 20 Zoning and the Whatcom County Comprehensive Plan Relating to Cumulative Impervious Surface Coverage Standards. We urge the County to limit impervious surfaces in rural areas. As will be explained below, this is supported by scientific research conducted in Western Washington.

Futurewise works throughout Washington State to support land-use policies that encourage healthy, equitable, and opportunity-rich communities, and that protect our most valuable farmlands, forests and water resources. Futurewise has members across Washington State, including Whatcom County.

The science shows impervious surface limits are needed

For well over a decade now, the scientific literature shows that constructed storm water facilities alone will not protect water quality.1 Rather impervious surface area and clearing regulations are needed too.2 The Booth article, enclosed, considered storm water controls in analyzing whether they alone can effectively protect water quality.3 The evidence is they cannot.4

In discussing the impacts of development on water quality, the Stormwater Management Manual for Western Washington states:

- There is some agreement that preserving a high percentage (possibly 65 to 75%) of the land cover and soils in an undisturbed state is necessary. To achieve these high percentages in urban, urbanizing, and suburban watersheds, a dramatic reduction is

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2 Derek B. Booth, David Hartley, and Rhett Jackson, Forest Cover, Impervious-Surface Area, and the Mitigation of Stormwater Impacts 38 JOURNAL OF THE AMERICAN WATER RESOURCES ASSOCIATION 835, 844 (2002).

3 Id. at 838 – 43.

4 Id.
necessary in the amount of impervious surfaces and artificially landscaped areas to accommodate our preferred housing, play, and work environments, and most significantly, our transportation choices.  

Requiring compliance with the storm water manual when impervious surfaces exceed 35 percent is not supported by the science

The proposal's approach, requiring compliance with the storm water manual when impervious surfaces exceed 35 percent, will not effectively protect water quality for three reasons. First, the approach is not tied the total impervious surfaces in a basin, they are just flat impervious surface area limits below which compliance with the storm water manual is not required and above which compliance is required. There is no consideration of existing impervious surfaces or the impact of the development on total impervious surfaces.

Second, as was documented above, storm water controls, alone, will not protect water quality. It will also not protect water quantity. According to the Washington State Department of Ecology, the Nooksack Watershed is experiencing “diminishing surface water supplies” and “declining groundwater levels in some areas during peak use periods ....”6 Limiting impervious surfaces and requiring infiltration when possible will help maintain water resources available for farms, homes, businesses, and fish.

Third, it does not include any provisions to maintain native vegetation in rural areas. As was documented by the Stormwater Management Manual for Western Washington this is necessary to maintain water quality and aquatic habitats.7

Adopting science-based impervious surface limits addresses these problems

These problems can be solved by adopting reasonable impervious surface limits. Limiting impervious surfaces 20 percent of a lot in rural Whatcom County combined with infiltrating storm water where possible will address the problems identified above.8 Clearing and excavations should be limited to maintain 65 percent native vegetation with undisturbed soils.9 We would support


8 Derek B. Booth, David Hartley, and Rhett Jackson, Forest Cover, Impervious Surface Area, and the Mitigation of Stormwater Impacts, 38 JOURNAL OF THE AMERICAN WATER RESOURCES ASSOCIATION 835, 844 (2002).

provisions to allow a larger impervious surface and clearing limit for lots 2.5 acres and smaller to assure that there is adequate buildable land on lot.

Thank you for considering our comments. If you require additional information, please contact me at telephone (206) 343-0681 Ext. 118 or email tim@futurewise.org.

Very Truly Yours,

[Signature]

Tim Trohimovich, AICP
Director of Planning & Law

Enclosures
Reference material can be found:

Online at:

https://wa-whatcomcounty.civicplus.com/DocumentCenter/View/29430

OR

In the County Council Regular Meeting Linked Agenda.

Hard copy can be viewed in the Council Office
**TITLE OF DOCUMENT:**
Discussion of proposed Whatcom County Code amendments to consolidate land use and development procedures.

**ATTACHMENTS:**

**SEPA review required?** ( ) Yes ( x ) NO  
**SEPA review completed?** ( ) Yes ( x ) NO  
**Should Clerk schedule a hearing?** ( ) Yes ( x ) NO  
**Requested Date**

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

PDS is in the early stages of drafting code amendments that would move procedural requirements that exist in various parts of the zoning code and other development related codes to a new Title 22, and make changes to clarify and update those requirements. This would be a preliminary discussion to brief the Planning and Development committee on the approach staff proposes and receive input from the Committee.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

<table>
<thead>
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<th>Related County Contract #:</th>
<th>Related File Numbers:</th>
<th>Ordinance or Resolution Number:</th>
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**Please Note:** Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: [www.co.whatcom.wa.us/council](http://www.co.whatcom.wa.us/council).
WHATCOM COUNTY COUNCIL AGENDA BILL

ATTACHMENTS:
1. Memo to County Executive and County Council
2. Vicinity Map
3. Petition to Reduce Speed
4. Speed Limit Ordinance

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

To comply with RCW 46.61.415, at the direction of the County Council, it is found necessary and expedient to modify speed limits on portions of North Shore Road

COMMITTEE ACTION:

COUNCIL ACTION:
7/11/2017: Introduced 7-0

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
Memorandum

To: The Honorable Jack Louws, County Executive, and Honorable Members of the Whatcom County Council

Through: Jon Hutchings, Director

From: Joseph P. Rutan, P.E., County Engineer/Assistant Director

Date: May 31, 2017

Re: Ordinance Regarding Change of Speed Limits for North Shore Road

Requested Action:
Adoption of an ordinance to lower the speed limit on portion of North Shore Road from 40 mph to 35 mph.

Background and Purpose:
North Shore area residents have submitted a petition to lower the speed limit on a portion of North Shore Road east of Y Road from the existing 40MPH to 30MPH (see attached).

The Public Works Department supports a speed limit reduction and would like to keep the speed limits consistent in the area. The speed limit on North Shore Road from the Bellingham City limits to Y Road is 35MPH. To be consistent we recommend the speed limit be changed to 35MPH from Y Road to the east end of North Shore Road.
ORDINANCE NO.
AN ORDINANCE REGARDING ESTABLISHMENT OF SPEED LIMIT
ON A PORTION OF NORTH SHORE ROAD

WHEREAS, the Whatcom County Council is authorized under RCW 46.61.415 to
establish speed limits on certain County roads; and

WHEREAS, a request to lower the speed limit on North Shore Road by local residents;

and

WHEREAS, the County Road Engineer has agreed that it is necessary to formally
establish a new speed limit on North Shore Road; and

NOW, THEREFORE, BE IT ORDAINED that a speed limit be set and posted at 35
miles per hour at the following locations:

On North Shore Road, from the intersections of Y Road to the east end of the road.

BE IT FURTHER ORDAINED that the County Engineer is hereby directed to post the
appropriate signs and that the Whatcom County Sheriff and the Washington State Patrol be
notified by a copy of this ordinance.

Provisions of this ordinance are hereby added to Whatcom County Code, Section
10.04. ADOPTED this _____ day of ________, 2017.

ATTEST: WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk Barry Buchanan, Council Chair

APPROVED AS TO FORM: ( ) Approved ( ) Denied

Daniel L. Gibson, Civil Deputy Prosecutor

Jack Louws, Executive

Date:
May 2, 2017

Joe Rutan
County Engineer/Assistant Director
Whatcom County Public Works
322 N Commercial Street, Ste 210
Bellingham, WA 98225

Dear Mr. Rutan,

As a concerned resident of Northshore Road I respectfully submit the attached petition for your consideration. The petition, signed by local residents and Lake Whatcom trail-goers, seeks to reduce the speed limit on Northshore Road from 40 mph to 30 mph from the Y Road intersection to the end of Northshore Road due to safety concerns (please see attachment).

This 2.6 mile portion of Northshore Road has approximately 135 homes and is the only section of the road that is posted at 40mph. From the 2700 block to the end of Northshore Road, almost half of these residents (61) must cross the road to access the waterfront. Recognizing that varying speed limits on the same roadway may cause confusion, this petition seeks to reduce the speed limit for the final portion of a dead-end road and would therefore not create that issue.

Lake Whatcom and the Ken Hertz Trail are beautiful and unique resources that should be available and enjoyed by all citizens. It is neither my intention, nor the neighbors’, nor the trail-goers who signed the petition to limit access or stifle the development of the park in any way.

However, it is our intention seek a permanent decrease in the speed limit to better handle the current and steadily increasing traffic flow to ensure reasonable safety for all residents and users of Northshore Road and to avoid potential accidents.

I appreciate your time and look forwarding to hearing from you. Thank you for your consideration.

Sincerely,

[Signature]

Julie Elsbree
2970 Northshore Road
360-319-5683

Attachments
Northshore Road safety concerns – list
Signed petition (2 pages)
Northshore Road safety concerns
Attachment to petition to reduce speed limit

- Residents must cross Northshore Road in order to access the waterfront
- Numerous users; runners, walkers, bicyclists, pets, wildlife and Ken Hertz park-goers compete for space on a road with minimal or no shoulders
- Vehicles pulling out onto Northshore Road, experience in some cases, very limited site distance requiring entry into fast-moving traffic
- Use of Lake Whatcom and the Ken Hertz Trail continues to grow (2014 >44,000 visitors annually; 2015>54,000 visitors)*
- Whatcom Park Recreation Trail Plan increased Lake Whatcom Park by 4,593 acres; visitor use at full build-out is projected to be 100,000 annually*
- Use of the park, and thus traffic, is anticipated to continue to grow regardless of trail development due to a local shortage of publically accessible freshwater shoreline*

* Source - Whatcom County Parks & Recreation/Trail Plan-Lookout Mountain Forest Preserve and Lake Whatcom Park Recreational Trail Plan, June 2016
We, the undersigned, petition Whatcom County to reduce the speed limit from 40 mph to 30 mph on
Northshore Road from the Y Road intersection to the end of Northshore Road because of safety concerns
described as follows:

1) The numerous users of Northshore Road; runners, walkers, bicyclists, pets, wildlife and Lake Whatcom Park-goers with watercraft and/or bicycles compete
for space on a road with minimal shoulders and in some cases, no shoulder at all.

2) Almost half of the ~135 residents from the Y Road intersection to the end of Northshore Road have parcels that are split by Northshore Road requiring
pedestrian crossing of Northshore Road to access waterfronts. Unfortunately, this the only portion of Northshore Road that is 40 mph.

3) Vehicle entry onto Northshore Road is sometimes challenging because of limited sight distance and the need to merge with vehicles traveling at a higher
rate of speed.

4) Use of Lake Whatcom Park and the easily accessible Hertz Trail continues to grow (2014 >44,000 visitors annually; 2015 > 54,000 visitors).*

5) Whatcom County’s approval of the Lake Whatcom Park Recreational Trail Plan increased Lake Whatcom Park by 4,593 acres; originally ~200 acres. Visitor
use at full build-out is projected to be 100,000 annually.*

6) Use of Lake Whatcom Park is anticipated to continue to grow regardless of trail development due to a local shortage of publically accessible freshwater
shoreline.*

* Whatcom County Parks & Recreation/Trail Plan - Lookout Mountain Forest Preserve and Lake Whatcom Park Recreational Trail Plan, June 2016
We, the undersigned, petition Whatcom County to reduce the speed limit from 40 mph to 30 mph on Northshore Road from the Y Road intersection to the end of Northshore Road because of safety concerns described as follows:

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2) Almost half of the ~135 residents from the Y Road intersection to the end of Northshore Road have parcels that are split by Northshore Road requiring pedestrian crossing of Northshore Road to access waterfronts. Unfortunately, this the only portion of Northshore Road that is 40 mph.

3) Vehicle entry onto Northshore Road is sometimes challenging because of limited sight distance and the need to merge with vehicles traveling at a higher rate of speed.

4) Use of Lake Whatcom Park and the easily accessible Hertz Trail continues to grow (2014 > 44,000 visitors annually; 2015 > 54,000 visitors annually).*

5) Whatcom County's approval of the Lake Whatcom Park Recreational Trail Plan increased Lake Whatcom Park by 4,593 acres; originally ~200 acres. Visitor use at full build-out is projected to be 100,000 annually.*

6) Use of Lake Whatcom Park is anticipated to continue to grow regardless of trail development due to a local shortage of publically accessible freshwater shoreline.*

<table>
<thead>
<tr>
<th>Name (please print):</th>
<th>Signature:</th>
<th>Address:</th>
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<tbody>
<tr>
<td>Adina Prineville</td>
<td></td>
<td>3422 Bridgewood Ct, Ferndale, WA 98250</td>
</tr>
<tr>
<td>Lynette Davis</td>
<td></td>
<td>31 Little Sweden Rd, Bellingham, WA 98226</td>
</tr>
<tr>
<td>Stacia Dahl</td>
<td></td>
<td>31 Little Sweden Rd, Bellingham, WA 98226</td>
</tr>
<tr>
<td>Katelyn Manz</td>
<td></td>
<td>508 Tremont Ave Apt. 102, Bellingham, WA 98225</td>
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<tr>
<td>Nuo Gontars</td>
<td></td>
<td>508 Tremont Ave Apt. 102, Bellingham, WA 98225</td>
</tr>
<tr>
<td>Michelle Halsey</td>
<td></td>
<td>702 Box 453, Lk. Stevens, WA 98242</td>
</tr>
<tr>
<td>Mike Shipp</td>
<td></td>
<td>2954 Northshore Rd, Bellingham, WA 98226</td>
</tr>
<tr>
<td>Ryan Elsbroe</td>
<td></td>
<td>1467 Lahji Dr, Bellingham, WA 98226</td>
</tr>
<tr>
<td>Chelsea Messer</td>
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<td>1467 Lahji Dr, Bellingham, WA 98226</td>
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<tr>
<td>Jon Lovell</td>
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<td>2976 Northshore Rd, Bellingham, WA 98226</td>
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<tr>
<td>Kathy Lovell</td>
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<td>2976 Northshore Rd, Bellingham, WA 98226</td>
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<tr>
<td>Audrey Halverson</td>
<td></td>
<td>2964 Northshore Rd, Bellingham, WA 98226</td>
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<tr>
<td>Vivian Duxbury</td>
<td></td>
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WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES | Initial | Date | Date Received in Council Office | Agenda Date | Assigned to |
---|---|---|---|---|---|
Originator: |  | 7/19/2017 | | 7/25/2017 | Council |
Division Head: | | | | |
Dept. Head: | | 7/19/17 | | |
Prosecutor: | | | | |
Purchasing/budget: | | | | |
Executive: | | | | |

TITLE OF DOCUMENT:
Res.re: advisory vote on ballot about imminent domain for oil and gas pipelines

ATTACHMENTS:
Resolution

SEPA review required? ( ) Yes ( ) NO
SEPA review completed? ( ) Yes ( ) NO
Should Clerk schedule a hearing? ( ) Yes ( X ) NO
Requested Date:

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

This resolution authorizes the Whatcom County Auditor to place the following advisory measure on the November general election ballot: "This measure will advise elected officials whether there is citizen opposition to use of eminent domain for oil and gas pipelines. Should the local, state and federal elected officials representing Whatcom County work to prevent and limit the use of eminent domain to take property rights from private landowners for use in oil and gas pipelines?"

COMMITTEE ACTION:  

COUNCIL ACTION:

Related County Contract #: Related File Numbers: Ordinance or Resolution Number:

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
PROPOSED BY:  
INTRODUCTION DATE: JULY 25, 2017

RESOLUTION NO. ____________

A RESOLUTION OF THE COUNTY COUNCIL OF WHATCOM COUNTY, WASHINGTON, PROVIDING FOR THE SUBMISSION TO THE QUALIFIED ELECTORS OF WHATCOM COUNTY, AT AN ELECTION TO BE HELD ON NOVEMBER 7, 2017, AN ADVISORY BALLOT SEEKING CITIZEN INPUT REGARDING THE USE OF EMINENT DOMAIN BY PIPELINE COMPANIES TO TAKE PROPERTY RIGHTS FROM PRIVATE LANDOWNERS FOR USE IN OIL AND GAS PIPELINES IN WHATCOM COUNTY

WHEREAS, several planned oil and gas pipeline proposals have been publically discussed in Whatcom County, and at least one has applied for permits to begin geopolitical geological testing; and,

WHEREAS, Williams Pipeline Company of Oklahoma has publicly stated an intent to build the "Island Gas Connector" pipeline through Whatcom County as early as 2019 but does not appear to own easements for the entire right of way; and

WHEREAS, Williams Pipeline has applied for permits from the Washington State Department of Natural Resources to begin geological testing near Cherry Point for the proposed Island Gas Connector project; and

WHEREAS, the Texas based Kinder Morgan company recently indicated in the Prospectus for the Kinder Morgan Limited Initial Public Offering that they have the ability to expand the Puget Sound Pipeline, which runs through Whatcom County, from 240,000 barrels per day to 500,000 barrels per day which may require larger easements across Whatcom County property than the company currently owns; and

WHEREAS, RCW 81.88.020 conveys the right to use eminent domain on private landowners to private corporations for purposes of constructing, maintenance and operation of pipelines carrying oil, gas and other petroleum products; and

WHEREAS, fossil fuel pipelines are inherently dangerous and landowners should not be exposed to those risks on their own property against their will; and

WHEREAS, the use of eminent domain to convey property rights or the use of property from one private landowner to a private company is a highly controversial practice; and

WHEREAS, an advisory measure on the November General Election ballot would accomplish the desired goal of measuring citizen concern about the potential misuse of eminent domain by oil and gas pipeline companies; and

WHEREAS, state, local, and federal policies impact the practice of eminent domain in Whatcom County; and

WHEREAS, the County Council, as the legislative body for Whatcom County, may formally place the ballot measure before the voters along with an explanatory statement; and

WHEREAS, if this resolution is approved, the Council must also appoint committees to prepare pro and con statements for the local voters' pamphlet, with the pro committee preparing a statement in favor of the measure and the con committee preparing a statement opposing the measure.
NOW, THEREFORE BE IT RESOLVED BY THE COUNTY COUNCIL as follows:

Section 1. Findings. The County Council hereby finds and declares an advisory ballot measure for the General Election in November, 2017, is in the best interest of the County and its citizens, to establish the measure of citizen concern about the use of eminent domain for oil and gas pipeline companies and to convey that concern to all levels of representative government.

Section 2. Election. It is hereby found that in order to formally measure citizen input regarding the use of eminent domain for oil and gas pipeline companies through the General Election in November, the Council must authorize the ballot measure as described herein, at an election to be held on the 7th day of November, 2017. The Whatcom County Auditor as supervisor of elections is hereby requested to assume jurisdiction of and to call and conduct said election to be held within the County and to submit to the qualified electors of the County the proposition hereinafter set forth.

Section 3. The Clerk of the Council is hereby authorized and directed, on or before August 1, 2017, to certify the following proposition to the Whatcom County Auditor in substantially the following form:

WHATCOM COUNTY, WASHINGTON
PROPOSITION NUMBER 2017-_______
ADVISORY BALLOT MEASURE REGARDING THE USE OF EMINENT DOMAIN FOR OIL AND GAS PIPELINES

The Whatcom County Council seeks citizen input regarding the use of eminent domain for oil and gas pipelines. This measure will advise elected officials whether there is citizen opposition to use of eminent domain for oil and gas pipelines. Should the local, state and federal elected officials representing Whatcom County work to prevent and limit the use of eminent domain to take property rights from private landowners for use in oil and gas pipelines?

_____ YES

_____ NO

APPROVED this ____ day of ________, 2017.

ATTEST: __________________________________________________________________________

Dana Brown-Davis
Clerk of the Council

Barry Buchanan
Council Chair

APPROVED AS TO FORM:

________________________________________________________________________

Karen Frakes
Civil Deputy Prosecutor

292
FOR IMMEDIATE RELEASE
Contact: Whatcom County Council Office (360) 778-5010

COUNTY COUNCIL SEEKS APPLICANTS TO WRITE VOTERS’ PAMPHLET STATEMENTS - ADVISORY VOTE REGARDING USE OF EMINENT DOMAIN BY PIPELINE COMPANIES
Council will appoint 2 or 3 citizens to Pro Statement and Con Statement Committees

BELLINGHAM, Washington, July 19, 2017 – On July 25, 2017, the Whatcom County Council is scheduled to hold a hearing to gather public comment on a proposed resolution providing for submission to the voters of Whatcom County at the next General Election, to be held on November 7, 2017, an advisory ballot seeking citizen input regarding the use of eminent domain by pipeline companies to take property rights from private landowners for use in oil and gas pipelines in Whatcom County. If the resolution is approved, the Council must appoint committees to prepare pro and con statements for the local voters’ pamphlet, with the pro committee preparing a statement in favor of the measure and the con committee preparing a statement opposing the measure. The Council is scheduled to appoint committee members at its regular 7 p.m. meeting on July 25, 2017.

Once appointed, the pro and con committees must submit their initial statements to the County Auditor by 4:30 p.m. Monday, August 7, 2017. Rebuttal statements are due to the Auditor by 4:30 p.m. Thursday, August 10, 2017.

To volunteer for a committee, please call the County Council Office by 4:30 p.m. on Monday, July 24, 2017, at (360) 778-5010, or email the office at council@co.whatcom.wa.us. Please provide your name, which committee you are volunteering for, and your contact information (include phone number and email address). If appointed, names and contact information will be shared with other committee members.

###
### WHATCOM COUNTY COUNCIL AGENDA BILL

**CLEARANCES**

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<th>Originator:</th>
<th>Citizens</th>
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**TITLE OF DOCUMENT:**

Ord. Ordering Election to Determine Formation of Lummi Island Park and Rec Dist

**ATTACHMENTS:**

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<th>SEPA review required?</th>
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**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Ordinance ordering an election to determine the formation of the Lummi Island Park and Recreation District

**COMMITTEE ACTION:**

<table>
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<th>COUNCIL ACTION:</th>
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<td>7/11/2017: Substitute Introduced 7-0</td>
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**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
PROPOSED BY:  CITIZENS
INTRODUCTION DATE:  JULY 11, 2017

ORDINANCE NO.  __________

ORDERING AN ELECTION TO DETERMINE FORMATION OF
THE LUMMI ISLAND PARK AND RECREATION DISTRICT AND AUTHORIZING THE DISTRICT, IF
FORMED, TO IMPOSE A SIX-YEAR REGULAR PROPERTY TAX LEVY TO FUND RECREATIONAL
FACILITIES

WHEREAS, on June 5, 2017, a petition proposing the creation of a park and recreation district on
Lummi Island was delivered to the County Council Office; and

WHEREAS, the petition met the requirements of RCW 36.69.020; and

WHEREAS, on June 13, 2017, the County Council approved Resolution 2017-036, officially
receiving the petition into the record and scheduling a public hearing on the proposal; and

WHEREAS, the County Council held a public hearing on the petition on July 11, 2017, as required
by RCW 36.69; and

WHEREAS, the next step in the park and recreation district formation process requires the
Council to establish the boundaries of the proposed district, establish its name, and call for an election of
the property owners residing within the proposed district boundaries to determine whether the district
shall be formed and if a property tax levy of $.60 (sixty cents) per thousand dollars of assessed valuation
shall be imposed for a six (6) year period to fund recreational facilities.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the proposed
district shall be known as the Lummi Island Park and Recreation District.

BE IT FURTHER ORDAINED that the boundaries of the proposed district, as submitted by the
petitioners, shall be as outlined in Exhibit A to this ordinance.

BE IT FURTHER ORDAINED that a ballot proposition authorizing the formation of the Lummi
Island Park and Recreation District shall be submitted to the voters of the proposed district in
substantially the following form:

LUMMI ISLAND PARK AND RECREATION DISTRICT FORMATION

This proposition would create the Lummi Island Park and Recreation District, to be governed
by five elected Park Commissioners.  Should this proposition be:

_________APPROVED
_________REJECTED

BE IT FURTHER ORDAINED that a ballot proposition authorizing the imposition of a six-year
property tax levy of $.60 (sixty cents) per thousand dollars of assessed valuation to fund recreational
facilities shall be submitted to the voters of the proposed district in substantially the following form:

LUMMI ISLAND PARK AND RECREATION DISTRICT PROPERTY TAX LEVY

This proposition would authorize the Lummi Island Park and Recreation District to impose a
property tax levy of $.60 (sixty cents) per thousand dollars of assessed valuation for six (6)
years to fund recreational facilities.  Should this proposition be:

_________APPROVED
_________REJECTED
BE I FINALLY ORDAINED that the Whatcom County Auditor shall cause notice of the above proposed propositions to be published in accordance with the state constitution and general law, and shall place the propositions upon the General Election ballot as appropriate.

ADOPTED this ______ day of ________________, 2017.

ATTEST:

Dana Brown-Davis
Clerk of the Council

APPROVED AS TO FORM:

Karen Frakes
Civil Deputy Prosecutor

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Barry Buchanan
Council Chair

( ) Approved ( ) Denied

Jack Louws
County Executive
EXHIBIT A
(ORDINANCE FORWARDING PROPOSED LUMMI ISLAND PARK DISTRICT PROPOSAL TO AUDITOR)

PROPOSED DISTRICT BOUNDARIES:
The district boundaries generally will include all of Lummi Island located in Whatcom County, being parts of Township 36 North, Range 2 East; Township 37 North, Ranges 1 and 2 East, and part of Township 38 North, Range 1 East, W.M., and all tidelands abutting said island.
**TITLE OF DOCUMENT:**
Appoint pro and con statement committee membeors - sales and use tax

**ATTACHMENTS:**

<table>
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<tr>
<th>SEPA review required?</th>
<th>( ) Yes</th>
<th>( ) NO</th>
<th>Should Clerk schedule a hearing?</th>
<th>( ) Yes</th>
<th>( ) NO</th>
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<tbody>
<tr>
<td>SEPA review completed?</td>
<td>( ) Yes</td>
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**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

On July 11, 2017, the Whatcom County Council adopted Ordinance No. 2017-037, submitting to the voters of Whatcom County a ballot proposition to authorize a sales and use tax for public safety purposes, including new jail facilities. This proposition would authorize a sales and use tax of two-tenths of one percent (0.002) for public safety purposes, including costs associated with construction, maintenance, and operation of jail facilities, plus incarceration prevention, medical, and behavioral health facilities and programs, as authorized by RCW 82.14.450. Half of the tax (0.001) will expire upon repayment of the total capital cost of jail facilities, or December 31, 2048, whichever occurs first. The County Council must appoint committees to prepare pro and con statements for the local voters' pamphlet, with the pro committee preparing a statement in favor of the measure and the con committee preparing a statement opposing the measure.

Once appointed, the pro and con committees must submit their initial statements to the County Auditor by 4:30 p.m. Monday, August 7, 2017. Rebuttal statements are due to the Auditor by 4:30 p.m. Thursday, August 10, 2017.
PRO AND CON STATEMENT COMMITTEES-
PROPOSITION TO AUTHORIZE A SALES AND USE TAX FOR PUBLIC SAFETY PURPOSES

On July 11, 2017, the Whatcom County Council adopted Ordinance No. 2017-037, submitting to the voters of Whatcom County a ballot proposition to authorize a sales and use tax for public safety purposes, including new jail facilities. This proposition would authorize a sales and use tax of two-tenths of one percent (0.002) for public safety purposes, including costs associated with construction, maintenance, and operation of jail facilities, plus incarceration prevention, medical, and behavioral health facilities and programs, as authorized by RCW 82.14.450. Half of the tax (0.001) will expire upon repayment of the total capital cost of jail facilities, or December 31, 2048, whichever occurs first. The County Council must appoint committees to prepare pro and con statements for the local voters' pamphlet, with the pro committee preparing a statement in favor of the measure and the con committee preparing a statement opposing the measure. The Council will appoint committee members at its regular 7 p.m. meeting on July 25, 2017.

Once appointed, the pro and con committees must submit their initial statements to the County Auditor by 4:30 p.m. Monday, August 7, 2017. Rebuttal statements are due to the Auditor by 4:30 p.m. Thursday, August 10, 2017.

To volunteer for a committee, please call the County Council Office by 4:30 p.m. on Monday, July 24, 2017, at (360) 778-5010, or email the office at council@co.whatcom.wa.us. Please provide your name, which committee you are volunteering for, and your contact information (include phone number and email address). If appointed, names and contact information will be shared with other committee members.

---

PRO STATEMENT COMMITTEE VOLUNTEERS, AS OF JULY 19, 2017
(LIST WILL BE UPDATED AS NEW NAMES ARE RECEIVED)

NONE

---

CON STATEMENT COMMITTEE VOLUNTEERS, AS OF JULY 19, 2017
(LIST WILL BE UPDATED AS NEW NAMES ARE RECEIVED)

JOSH CERRET TI
### TITLE OF DOCUMENT:
Appointment to pro/con statement writing committees - Lummi Island Park and Rec.

### ATTACHMENTS:

<table>
<thead>
<tr>
<th>SEPA review required?</th>
<th></th>
<th>Yes</th>
<th></th>
<th>NO</th>
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<tr>
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<td></td>
<td>Yes</td>
<td></td>
<td>NO</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Should Clerk schedule a hearing?</th>
<th></th>
<th>Yes</th>
<th></th>
<th>NO</th>
</tr>
</thead>
</table>

**Requested Date:**

### SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:
(If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

In June 2017 the Whatcom County Council officially received a petition to form a park and recreation district on Lummi Island. In accordance with RCW 36.69, the Council held a public hearing on the petition on July 11, 2017, and is now required to forward the proposal to the County Auditor. The Council is scheduled to adopt an ordinance on July 25, 2017, that will establish the boundaries of the proposed district, establish its name, and forward the proposal to the Auditor, calling for an election of the property owners residing within the proposed district boundaries to determine whether the district shall be formed and if a property tax levy of $0.60 (sixty cents) per thousand dollars of assessed valuation shall be imposed for a six (6) year period to fund recreational facilities. Upon adoption of the ordinance, Council must appoint committees to prepare pro and con statements for the local voters’ pamphlet, with the pro committee preparing a statement in favor of the measure and the con committee preparing a statement opposing the measure.

Once appointed, the pro and con committees must submit their initial statements to the County Auditor by 4:30 p.m. Monday, August 7, 2017. Rebuttal statements are due to the Auditor by 4:30 p.m. Thursday, August 10, 2017.

### COMMITTEE ACTION:

### COUNCIL ACTION:

<table>
<thead>
<tr>
<th>Related County Contract #:</th>
<th>Related File Numbers:</th>
<th>Ordinance or Resolution Number:</th>
</tr>
</thead>
</table>

**Please Note:** Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: [www.co.whatcom.wa.us/council](http://www.co.whatcom.wa.us/council).
PRO AND CON STATEMENT COMMITTEES-
PROPOSITION TO FORM LUMMI ISLAND PARK AND RECREATION DISTRICT

The Whatcom County Council officially received a petition to form a park and recreation district on Lummi Island. In accordance with RCW 36.69, the Council held a public hearing on the petition on July 11, 2017, and is now required to forward the proposal to the County Auditor. The Council is scheduled to adopt an ordinance on July 25, 2017, that will establish the boundaries of the proposed district, establish its name, and forward the proposal to the Auditor, calling for an election of the property owners residing within the proposed district boundaries to determine whether the district shall be formed and if a property tax levy of $.60 (sixty cents) per thousand dollars of assessed valuation shall be imposed for a six (6) year period to fund recreational facilities. Upon adoption of the ordinance, Council must appoint committees to prepare pro and con statements for the local voters’ pamphlet, with the pro committee preparing a statement in favor of the measure and the con committee preparing a statement opposing the measure. The Council will appoint committee members at its regular 7 p.m. meeting on July 25, 2017.

Once appointed, the pro and con committees must submit their initial statements to the County Auditor by 4:30 p.m. Monday, August 7, 2017. Rebuttal statements are due to the Auditor by 4:30 p.m. Thursday, August 10, 2017.

To volunteer for a committee, please call the County Council Office by 4:30 p.m. on Monday, July 24, 2017, at (360) 778-5010, or email the office at council@co.whatcom.wa.us. Please provide your name, which committee you are volunteering for, and your contact information (include phone number and email address). If appointed, names and contact information will be shared with other committee members.

---

PRO STATEMENT COMMITTEE VOLUNTEERS, AS OF JULY 19, 2017
(LIST WILL BE UPDATED AS NEW NAMES ARE RECEIVED)

IAN KIROUAC
JON MUTCHEL
TAMIA SORENSEN
RANDY SMITH

---

CON STATEMENT COMMITTEE VOLUNTEERS, AS OF JULY 19, 2017
(LIST WILL BE UPDATED AS NEW NAMES ARE RECEIVED)

NONE
**WHATCOM COUNTY COUNCIL AGENDA BILL**

<table>
<thead>
<tr>
<th>CLEARANCES</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to</th>
</tr>
</thead>
<tbody>
<tr>
<td>Originator:</td>
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<td>7/19/2017</td>
<td></td>
<td></td>
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<td>Purchasing/Budget:</td>
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<tr>
<td>Executive:</td>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

**TITLE OF DOCUMENT:**

Appoint to Pro & Con Committee members-Eminent domain - pipelines

**ATTACHMENTS:**

| SEPA review required? | Yes | NO |
| SEPA review completed? | Yes | NO |

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

After approval of the resolution to place an advisory vote on the November 7 ballot, Council will appoint members to the Pro and to the Con Committees to prepare statements for the voters’ guide.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: [www.co.whatcom.wa.us/council](http://www.co.whatcom.wa.us/council).
PRO AND CON STATEMENT COMMITTEES-
ADVISORY VOTE REGARDING USE OF EMINENT DOMAIN BY PIPELINE COMPANIES

On July 25, 2017, the Whatcom County Council is scheduled to hold a hearing to gather public comment on a proposed resolution providing for submission to the voters of Whatcom County at the General Election, to be held on November 7, 2017, an advisory ballot seeking citizen input regarding the use of eminent domain by pipeline companies to take property rights from private landowners for use in oil and gas pipelines in Whatcom County. If the resolution is approved, the Council must appoint committees to prepare pro and con statements for the local voters’ pamphlet, with the pro committee preparing a statement in favor of the measure and the con committee preparing a statement opposing the measure. The Council is scheduled to appoint committee members at its regular 7 p.m. meeting on July 25, 2017.

Once appointed, the pro and con committees must submit their initial statements to the County Auditor by 4:30 p.m. Monday, August 7, 2017. Rebuttal statements are due to the Auditor by 4:30 p.m. Thursday, August 10, 2017.

To volunteer for a committee, please call the County Council Office by 4:30 p.m. on Monday, July 24, 2017, at (360) 778-5010, or email the office at council@co.whatcom.wa.us. Please provide your name, which committee you are volunteering for, and your contact information (include phone number and email address). If appointed, names and contact information will be shared with other committee members.

---

**PRO STATEMENT COMMITTEE VOLUNTEERS, AS OF JULY 19, 2017**
(LIST WILL BE UPDATED AS NEW NAMES ARE RECEIVED)

NONE

---

**CON STATEMENT COMMITTEE VOLUNTEERS, AS OF JULY 19, 2017**
(LIST WILL BE UPDATED AS NEW NAMES ARE RECEIVED)

NONE
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES  Initial Date  Date Received in Council Office  Agenda Date  Assigned to:

Originator:  SM  7/17/17  7/25/17  Council

Division Head:
Dept. Head:
Prosecutor:
Purchasing/Budget:

Executive:

TITLE OF DOCUMENT: Appointments to the Whatcom County Behavioral Health Advisory Committee

ATTACHMENTS: Memorandum dated 7/17/17 from Human Services Manager Anne Deacon; Applications of advocate members

SEPA review required? ( ) Yes ( ) NO  Should Clerk schedule a hearing? ( ) Yes ( ) NO
SEPA review completed? ( ) Yes ( ) NO  Requested Date:

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

County Executive Jack Louws recommends the confirmation of his appointments of the following individuals to the new Behavioral Health Advisory Committee:

Position  Name
Sheriff  Bill Elfo
Chief of Corrections  Wendy Jones
PeaceHealth Representative  Chris Phillips
Judicial Representative  Dave Reynolds
Health Department Rep  Regina Delahunt
Substance Abuse Advocates  Dascomb (Dac) Jamison and Darrin Hall
Behavioral Health Professional  Susan Wood

COMMITTEE ACTION:

COUNCIL ACTION:

Related County Contract #:  Related File Numbers:  Ordinance or Resolution Number:

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
TO: Jack Louws, County Executive
FROM: Anne Deacon, Human Services Manager
RE: Nominations for Appointments to the Behavioral Health Advisory Committee

I am pleased to forward three nominations for the newly formed Behavioral Health Advisory Committee. This committee was formed recently by County Code, Chapter 3.37, and replaces two former committees, the Behavioral Health Revenue Advisory Committee and the Behavioral Health Advisory Board.

The first nominee, Darrin Hall, previously served on the Behavioral Health Revenue Advisory Committee. Mr. Hall is being nominated to serve as Substance Abuse Recovery Advocate, where he will be able to apply his experience as a Whatcom County Public Defender and Mental Health Court Attorney. He brings personal experience to this advocacy role which will provide the committee with important perspective on the needs of the community.

The second nominee is Susan Wood. Ms. Wood has a long history of working in education and has been a certified school counselor in Washington State since 2000. Her teaching career dates back to 1981, and she has taught at several public schools across Whatcom County. Her many years of experience working with youth in Whatcom County will be an asset to the committee’s goal of “early intervention and behavioral health promotion focus on young children and families” (WCC 3.37.070 E).

The third nominee is Dac Jamison, who has a long history of working with County Advisory Boards, most recently as a member of the Behavioral Health Advisory Board. Mr. Jamison is being nominated to serve the Behavioral Health Advisory Committee as an advocate for substance abuse recovery, with a stated goal of promoting more effective treatment and prevention for drug abuse and mental health issues. His 30+ years with the Bellingham Police Department give him insight into the challenges that arise and potential solutions when behavioral health issues interact with law enforcement.

In addition to these three advocates, I also request confirmation of the appointment for the following designated representatives:

- Bill Elfo, Sheriff
- Wendy Jones, Chief of Corrections
- Chris Phillips, PeaceHealth Representative
- Dave Reynolds, Judicial Representative
- Regina Delahunt, Health Department Director

Thank you for considering these nominations for appointment.
Application for Appointment to Whatcom County Boards and Commissions

Public Statement
THIS IS A PUBLIC DOCUMENT: As a candidate for a public board or commission, the information provided will be available to the County Council, County Executive, and the public. All board and commission members are expected to be fair, impartial, and respectful of the public, County staff, and each other. Failure to abide by these expectations may result in revocation of appointment and removal from the appointive position.

First Name

Darrin

Last Name

Hall

Date

7/14/2017

Street Address

215 N. Commercial St

City

Bellingham

Zip

98225

Do you live in & are you registered to vote in Whatcom County?

Yes

Do you have a different mailing address?

Field not completed.

Primary Telephone

3606328434

Secondary Telephone

Field not completed.

Email Address

hall.darrin@gmail.com

1. Name of Board or Committee

Behavioral Health Advisory Committee

Position applied for:

Substance Use Disorder Recovery Advocate

2. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying?

Yes

3. Which Council district do you live in?

District 2

4. Are you a US citizen?

Yes

5. Are you registered to vote in Whatcom County?

Yes
6. Have you declared candidacy (as defined by RCW 42.17A.055) for a paid elected office in any jurisdiction within the county?  
No

7. Have you ever been a member of this Board/Commission?  
No

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County?  
Yes
Whatcom County Public Defender
Field not completed.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education  
Whatcom County Public Defender, Mental Health Court Attorney
Field not completed.

10. Please describe why you’re interested in serving on this board or commission  
Field not completed.

References (please include daytime telephone number):  
Field not completed.

Signature of applicant:  
Darrin L Hall

Place Signed / Submitted  
Bellingham, WA
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

Name: Susan M. Wood
Street Address: 4265 Ridgewood Ave
City: Bellingham
Zip Code: 98229
Mailing Address (if different from street address): 
Day Telephone: 360-733-7830  Evening Telephone: 360-733-7830  Cell Phone: 360-920-2203
E-mail address: susanmwood@comcast.net

1. Name of board or committee-please see reverse: Behavioral Health Advisory Board

2. 

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you're applying?
   (If applicable, please refer to vacancy list.)
   yes  no

4. Which Council district do you live in?
   One  Two  Three  Four  Five
   yes  no

5. Are you a US citizen?
   yes  no

6. Are you registered to vote in Whatcom County?
   yes  no

7. Have you ever been a member of this Board/Commission?
   yes  no

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County?
   yes  no

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.
   Please see attached resume.

10. Please describe why you're interested in serving on this board or commission:
    For 32 years I worked as a counselor and teacher with a wide variety of clients and families. I am well aware of the impact of mental health and addiction issues on the lives of individuals, families, and the larger community. I would like to use my experience and expertise to help meet the health priorities for the county.

References (please include daytime telephone number):

Jed Decker, counselor; 360-223-0870
Julia Besola, associate principal; 360-383-9241

Signature of applicant: Susan M. Wood
Susan M. Wood
4265 Ridgewood Avenue
Bellingham, WA 98229
(360) 733-7830

CERTIFICATION

Washington State School Counseling Certification
Certificate # 244763R, May 2000

National Board for Certified Counselors Certification
Certificate #62824, May 2000

Washington State Teacher Certification
Certificate # 244763R, March 1981

EDUCATION

Master of Education in School Counseling, Western Washington University, Bellingham, WA. 2000.

Master of Arts in English, Western Washington University, Bellingham, WA. 1986.

Bachelor of Arts in English Education, Western Washington University, Bellingham, WA. 1981.

COUNSELING RELATED EXPERIENCE

High School Counselor, & Counseling Dept. Chair, Ferndale High School, Ferndale, WA 2001 - 2014

• Successfully designed and implemented guidance and counseling programs to meet students’ personal, social, career, and academic needs.
• Provided individual counseling, small group counseling, family counseling, large group guidance, consultation, and coordination of services for over 450 students yearly.
• Assisted in Multi-Disciplinary Team evaluations and planning for student 504 plans and IEP’s. Served as case manager for 504 plans.
• Helped students develop long-term plans, formulate interim goals, choose classes, and evaluate their progress.
• Founded and facilitated an anti-bullying performance education troupe.
• Coordinated a school-wide Advanced Placement Program, AP Testing, and Accelerated Mentorships.
• Presented effective parent/student information nights.
• Collaborated with parents, teachers, administrators, and community mental health resources to enhance student success.

• Provided effective individual counseling for students.
• Helped students formulate long-term educational and career goals and plans.
• Collaborated with parents, teachers, and administrators, and county mental health resources.
• Assisted with all-school scheduling.

• Provided effective individual counseling for students grades 9-12.
• Designed and facilitated group counseling programs to improve student success.
• Assisted in Multi-Disciplinary Team evaluations and planning for student 504 plans and IEP’s.
• Addressed student needs school-wide through classroom guidance activities on a variety of personal, social, educational, and career issues.
• Scheduled students into appropriate classes based on long-term educational and career goals.
• Collaborated with fellow faculty members, parents, and community mental health resources to enhance student success.

• Developed Squalicum’s peer mediation program.
• Provided mediation training for students and teachers.

• Successfully counseled a number of individual clients, children through adults.
• Developed, implemented, and evaluated counseling strategies.
• Successfully counseled families and couples.
• Developed, implemented, and evaluated family counseling strategies.
• Taught effective parenting skills.

• Taught effective parenting skills to parents facing problems related to child abuse and neglect.
• Provided one-on-one support services to abusive parents and their children.

TEACHING

English Department Chair, Bellingham High School, Bellingham, WA. 1990-1998.
• Acted as a liaison between English department members and the administration. Served on numerous district-level Language Arts committees.

• Designed coursework for and taught remedial through honors level courses, grades 9-12.

• Developed coursework for and taught Composition 101.

• Developed coursework for and taught English, Speech, Reading, Newspaper, and Yearbook, grades 9-12.

PROFESSIONAL

• American School Counselor Association
• Washington School Counselor Association
• Bellingham Schools Counseling Program Planning Team 1999 & 2000.
• Ferndale Schools Counseling Program Planning Team 2000-2003.
Application for Appointment to Whatcom County Boards and Commissions

Public Statement
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First Name
Dac

Last Name
Jamison

Date
5/12/17

Street Address
3232 Laurelwood Ave.

City
Bellingham

Zip
98225

Do you live in & are you registered to vote in Whatcom County?
Yes

Do you have a different mailing address?
Field not completed.

Primary Telephone
3606718192

Secondary Telephone
3606718192

Email Address
dacjmsn198@gmail.com

1. Name of Board or Committee
Behavioral Health Advisory Committee

2. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying?
Yes

3. Which Council district do you live in?
District 1

4. Are you a US citizen?
Yes

5. Are you registered to vote in Whatcom County?
Yes

312
6. Have you declared candidacy (as defined by RCW 42.17A.055) for a paid elected office in any jurisdiction within the county?  
No

7. Have you ever been a member of this Board/Commission?  
Yes
If yes, please list dates:  

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County?  
No

You may attach a resume or detailed summary of experience, qualifications, & interest in response to the following questions

Field not completed.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education

Thirty years on the Bellingham Police Dept. (retired), many nonprofit boards,

10. Please describe why you’re interested in serving on this board or commission

Promote more effective treatment and prevention for drug abuse and mental health issues.

References (please include daytime telephone number):
Dale Brandland 961-0102 Steve Kelsey 305-8081

Signature of applicant:  
Dascomb Jamison

Place Signed / Submitted  
Bellingham, WA
**TITLE OF DOCUMENT:**
Receipt applications for Board of Equalization representing District 2

**ATTACHMENTS:**
Application

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)
Receipt of applications for the Whatcom County Board of Equalization, representing District 2, term ending 1/31/2020. Applicant: John Bruton. The Board ensures that all properties are valued at 100% of market value. The Board may equalize property values by either lowering or raising land/building assessments. Members receive $75 per diem for attending hearings.)

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
Board and Commission Application

Step 1

Application for Appointment to Whatcom County Boards and Commissions

Public Statement

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First Name: John
Last Name: Bruton
Date: 7/5/2017
Street Address: 2311 Huron St
City: Bellingham
Zip: 98229

Do you live in & are you registered to vote in Whatcom County? Yes

Do you have a different mailing address? Field not completed.

Primary Telephone: 360-671-0700
Secondary Telephone: 3602241345
Email Address: taxoffice@msn.com

Step 2
1. **Name of Board or Committee**: Board of Equalization

2. **Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying?** Yes

3. **Which Council district do you live in?** District 1 District 2

4. **Are you a US citizen?** Yes

5. **Are you registered to vote in Whatcom County?** Yes

6. **Have you declared candidacy (as defined by RCW 42.17A.055) for a paid elected office in any jurisdiction within the county?** No

7. **Have you ever been a member of this Board/Commission?** Yes

   **If yes, please list dates:** I was on the Board of Equalization for I believe two years in the 1980's

8. **Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County?** No

   **You may attach a resume or detailed summary of experience, qualifications, & interest in response to the following questions** Field not completed.

9. **Please describe your occupation (or former occupation if retired), qualifications,** I am the senior partner in an accounting firm here in Bellingham. Bruton, Nissen & Schellberg, 119 N. Commercial St Suite 990, Bellingham, WA 98225
professional and/or community activities, and education

10. Please describe why you're interested in serving on this board or commission

When I last served on the Board many years ago I enjoyed the experience. Unfortunately I was also running a full time business and had to resign after only two years. I am about to retire and would be able to devote as much time as necessary to the position.

References (please include daytime telephone number):

Tim Douglas 676-8530 Roger Despain 820-9121

Signature of applicant: John W. Bruton

Place Signed / Submitted Bellingham, WA

Email not displaying correctly? View it in your browser.
Thank you for your response. Whatcom County has five districts now, and after checking with the Auditor’s office your address of 2311 Huron Street is in the new County Council District 2. The vacancy on the Board of Equalization is in District 2, and will be submitted to the Council for review.

NaDean Hanson
Whatcom County Council Office
311 Grand Avenue, Suite 105
Bellingham, WA 98225
Main line 360-778-5010
Direct line 360-778-5018

NOTICE: All emails, and attachments, sent to and from Whatcom County are public records and may be subject to disclosure pursuant to the Public Records Act (RCW 42.56)

To: N. Hanson

Turns out I am in Council District 2 after all. Although my voters registration card says district 1.

Thank you

John Bruton, EA
Bruton, Nissen & Schellberg Inc PS

This electronic message contains information belonging to Bruton & Schellberg, Inc PS which is confidential and /or privileged information. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this message is strictly prohibited. Please notify us immediately by replying to this message or telephoning us if you have received this message by mistake. Thank you.
**TITLE OF DOCUMENT:** 2017 Supplemental Budget Request #9

**ATTACHMENTS:** Ordinance, Memoranda & Budget Modification Requests

<table>
<thead>
<tr>
<th>SEPA review required?</th>
<th>( ) Yes</th>
<th>( X ) NO</th>
<th>Should Clerk schedule a hearing?</th>
<th>( ) Yes</th>
<th>( X ) NO</th>
</tr>
</thead>
</table>

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Supplemental #9 requests funding from the Road Fund:

1. To appropriate $46,125 to fund Road Fund portion of Ferry Alternatives Analysis.
2. To appropriate $102,500 to fund Ferry Alternatives Analysis.
ORDINANCE NO.
AMENDMENT NO. 9 OF THE 2017 BUDGET

WHEREAS, the 2017-2018 budget was adopted December 6, 2016; and,
WHEREAS, changing circumstances require modifications to the approved 2017-2018 budget; and,
WHEREAS, the modifications to the budget have been assembled here for deliberation by the Whatcom County Council.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the 2017-2018 Whatcom County Budget Ordinance #2016-068 is hereby amended by adding the following additional amounts to the 2017 budget included therein:

<table>
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<tr>
<th>Fund</th>
<th>Expenditures</th>
<th>Revenues</th>
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<tbody>
<tr>
<td>Road Fund</td>
<td>46,125</td>
<td>(40,000)</td>
<td>6,125</td>
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<tr>
<td>Ferry Fund</td>
<td>102,500</td>
<td>(46,125)</td>
<td>56,375</td>
</tr>
<tr>
<td>Total Supplemental</td>
<td>148,625</td>
<td>(86,125)</td>
<td>62,500</td>
</tr>
</tbody>
</table>

ADOPTED this ____ day of ____________________, 2017.

ATTEST:

Dana Brown-Davis, Council Clerk

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Barry Buchanan, Chair of the Council

( ) Approved    ( ) Denied

Jack Louws, County Executive

Date:________________________
### WHATCOM COUNTY

Summary of the 2017 Supplemental Budget Ordinance No. 9

<table>
<thead>
<tr>
<th>Department/Fund</th>
<th>Description</th>
<th>Increased (Decreased) Expenditure</th>
<th>(Increased) Decreased Revenue</th>
<th>Net Effect to Fund Balance (Increase) Decrease</th>
</tr>
</thead>
<tbody>
<tr>
<td>Road Fund</td>
<td>To fund Road Fund portion of Ferry Alternatives Analysis.</td>
<td>46,125</td>
<td>(40,000)</td>
<td>6,125</td>
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<tr>
<td>Ferry Fund</td>
<td>To fund Ferry Alternatives Analysis.</td>
<td>102,500</td>
<td>(46,125)</td>
<td>56,375</td>
</tr>
<tr>
<td>Total Supplemental</td>
<td></td>
<td>148,625</td>
<td>(86,125)</td>
<td>62,500</td>
</tr>
</tbody>
</table>
**Supplemental Budget Request**

**Public Works**

**Fund 108**  
**Cost Center 10895**  
**Originator:** Randy Rydel

**Expenditure Type:** One-Time  
**Year:** 2017  
**Add'l FTE**  
**Add'l Space**  
**Priority:** 1

**Name of Request:** Companion to Ferry Supplemental 2017-2327

<table>
<thead>
<tr>
<th>Department Head Signature (Required on Hard Copy Submission)</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>X</td>
<td>7/10/17</td>
</tr>
</tbody>
</table>

**Costs:**

<table>
<thead>
<tr>
<th>Object</th>
<th>Object Description</th>
<th>Amount Requested</th>
</tr>
</thead>
<tbody>
<tr>
<td>8301.444100</td>
<td>Operating Transfer In</td>
<td>($40,000)</td>
</tr>
<tr>
<td>8351.444</td>
<td>Operating Transfer Out</td>
<td>$46,125</td>
</tr>
<tr>
<td><strong>Request Total</strong></td>
<td></td>
<td><strong>$8,125</strong></td>
</tr>
</tbody>
</table>

**1a. Description of request:**

Per WCC 10.34.030 the Whatcom County Ferry Operations are subsidized 45% by the Road Fund. Therefore substantial additions to the Ferry Operating budget require additional road fund contribution to comply with the funding split. The ferry request 2017-2327 for $102,500 covers additions to the proposed Level of Service Analysis for the Whatcom Ferry Operations. $46,125 is the additional burden to the road fund due to the additional spending.

Additionally, the LOS analysis will require more direct staff time from road fund employees. This time will be reimbursed to the Road fund and is estimated at $40,000 for 6 months of work on this project. This will be coming to the road fund through an operating transfer in.

**1b. Primary customers:**

**2. Problem to be solved:**

**3a. Options / Advantages:**

**3b. Cost savings:**

**4a. Outcomes:**

**4b. Measures:**

**5a. Other Departments/Agencies:**

**5b. Name the person in charge of implementation and what they are responsible for:**

Public Works Staff and LIFAC are responsible for implementing this through the Ferry Fund.

**6. Funding Source:**

Road Fund Balance

*Monday, July 10, 2017*
MEMORANDUM

JUL 11 2017

To: The Honorable Jack Louws, Whatcom County Executive, and Honorable Members of the Whatcom County Council

Through: Jon Hutchings, Director

From: Roland Middleton, L.E.G., Special Programs Manager

Date: July 10, 2017

RE: 2017 Supplemental Budget Request (2017-2327)
   - Lummi Island Ferry LOS

Requested Action
Whatcom County Public Works Department requests the addition of $56,375 in expenditure authority to proceed with the Alternatives Analysis to establish a level of service for the Lummi Island Ferry System.

Project Background
Following direction from the Whatcom County Council on February 21, 2017, the Lummi Island Ferry Advisory Committee (LIFAC) and Whatcom County Public Works Department are moving forward with the negotiated contract for a consulting firm to perform an alternatives analysis, establish preliminary cost and funding recommendations for a level of service of the Lummi Island Ferry System. The consultant will schedule to meet with LIFAC on a monthly basis to provide input on the direction and measured goals of the report/recommendation. This analysis implements Comprehensive Plan policy 6C-9.

Funding Amount and Source
This request utilizes ferry fund balance.

Please contact Roland Middleton at extension 6212, if you have any questions or concerns regarding this topic.
Supplemental Budget Request

Public Works
Ferry & Docks

Suppl 10 # 2327 Fund 444 Cost Center 444100 Originator: Roland Middleton

Expenditure Type: One-Time Year 1 2017 Add'l FTE □ Add'l Space □ Priority 1

Name of Request: Ferry LOS Supplemental #2

Department Head Signature (Required on Hard Copy Submission) Date 7/10/17

<table>
<thead>
<tr>
<th>Costs:</th>
<th>Object</th>
<th>Object Description</th>
<th>Amount Requested</th>
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</thead>
<tbody>
<tr>
<td>6120</td>
<td>Extra Help</td>
<td></td>
<td>$9,800</td>
</tr>
<tr>
<td>6630</td>
<td>Professional Services</td>
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<td>$25,000</td>
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<tr>
<td>6699.108</td>
<td>Other Services-Interfund</td>
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<td>$27,700</td>
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<tr>
<td>8301.108</td>
<td>Operating Transfer In</td>
<td></td>
<td>($46,125)</td>
</tr>
<tr>
<td>8351.108010</td>
<td>Operating Transfer Out</td>
<td></td>
<td>$40,000</td>
</tr>
<tr>
<td>Request Total</td>
<td></td>
<td></td>
<td>$56,375</td>
</tr>
</tbody>
</table>

1a. Description of request:
Additional budget approval is requested for consultant firm contract with additional funding allocation for staff time for the Lummi Island Ferry Service Alternatives Analysis.

1b. Primary customers:
The alternatives analysis was requested by the Whatcom County Council (Resolution #2017-012) and the Lummi Island Ferry Advisory Committee (LIFAC).

2. Problem to be solved:
Policy 8C-9 of the Whatcom County Comprehensive Plan identifies the need for a ferry feasibility study to establish a new level of service and analyze the alternatives for the Lummi Island Ferry System.

3a. Options / Advantages:
The additional Professional Services funds accounts for the final negotiated scope of work with KPFF consulting firm. The firm was selected by a committee including two LIFAC members, an additional representative of LIFAC and Whatcom County Public Works staff.

3b. Cost savings:
Most of the Data needs are collected and recorded by extra help at a much reduced rate than using the professional service contract.

4a. Outcomes:
The completed contract will provide LIFAC with a publicly vetted level of service to recommend to the Whatcom County Council.

4b. Measures:
Recommended level of service for the Lummi Island Ferry System.

5a. Other Departments/Agencies:
N/A

5b. Name the person in charge of implementation and what they are responsible for:
Lummi Island Ferry Advisory Committee is assisted by Roland Middleton, Whatcom County Public Works Special Programs Manager.

6. Funding Source:
Whatcom County Ferry Operations. Per WCC 10.34.030 Operations are 55% funded by fare box

Monday, July 10, 2017

Rpt: Rpt Suppl Regular
Supplemental Budget Request

<table>
<thead>
<tr>
<th>Public Works</th>
<th>Ferry &amp; Docks</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Suppl #</strong></td>
<td>2327</td>
</tr>
<tr>
<td><strong>Fund</strong></td>
<td>444</td>
</tr>
<tr>
<td><strong>Cost Center</strong></td>
<td>444100</td>
</tr>
<tr>
<td><strong>Originator</strong></td>
<td>Roland Middleton</td>
</tr>
</tbody>
</table>

receipts. The remaining 45% is covered through operating subsidies from the Road Fund.