

WHATCOM COUNTY COUNCIL AGENDA BILLNO. AB2013-128

CLEARANCES	Initial	Date	Date Received in Council Office	Agenda Date	Assigned to:
Originator: Samya Lutz	SLKL	03/12/13	<div style="text-align: center;"> RECEIVED MAR 19 2013 WHATCOM COUNTY COUNCIL </div>	3/26/2013	P&D Committee
Division Head: Mark Personius	MP	3-12-13			
Dept. Head: J.E. "Sam" Ryan	JER	3-14-13			
Prosecutor: Karen Frakes	KF	3-14-13			
Purchasing/Budget:					
Executive: Jack Louws	AL	3-18-13			

TITLE OF DOCUMENT: Agricultural Parcel Reconfiguration Code amendments as recommended in the Agricultural Strategic Plan (RES2011-023)

ATTACHMENTS:

- 1) Staff memo to Council
- 2) Proposed Ordinance

SEPA review required? ☒ Yes ☐ NO
 SEPA review completed? ☒ Yes ☐ NO

Should Clerk schedule a hearing? ☐ 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.)

Proposed amendments to portions of the Official Whatcom County Zoning (Title 20) and Subdivision (Title 21) Ordinances for categorical changes related to the Parcel Reconfiguration task as recommended in the Ag Strategic Plan File. Changes include: Change to Ag Farmstead Parcel creation, a new Ag Parcel Reconfiguration Tool, Ag Siting Criteria, and Procedurally treating Ag Parcel Reconfigurations similar to Boundary Line Adjustments.

COMMITTEE ACTION:**COUNCIL ACTION:**

Related County Contract #:

Related File Numbers:

RES2011-023

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.

WHATCOM COUNTY

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J.E. "Sam" Ryan
Director

MEMORANDUM

TO: Honorable Whatcom County Council Members
CC: The Honorable Jack Louws, County Executive
FROM: Samya Lutz, Planner *SL*
THROUGH: Mark Personius, Long Range Planning Manager *MP*
DATE: March 12, 2013
SUBJECT: Whatcom County Agricultural Strategic Plan Implementation (PLN2012-00007):
Agricultural Parcel Reconfiguration

The Planning Commission passed a recommendation to approve proposed code amendments related to Agricultural Parcel Reconfiguration at their meeting on February 28, 2013, after a public hearing on the same day. The draft amendments relate to portions of the Official Whatcom County Zoning (Title 20) and Subdivision (Title 21) Ordinance for categorical changes related to the Parcel Reconfiguration task as recommended in the Ag Strategic Plan File. Changes include: Change to Ag Farmstead Parcel creation, a new Ag Parcel Reconfiguration Tool, Ag Siting Criteria, and Procedurally treating Ag Parcel Reconfigurations similar to Boundary Line Adjustments. These changes are included as Exhibit 1 to both the Planning Commission staff report, and the draft ordinance included with your materials.

BACKGROUND

Resolution 2011-023 was approved by the County Council on July 26, 2011 declaring support for the Whatcom County Agricultural Strategic Plan developed by the county Agricultural Advisory Committee (AAC). An immediate priority articulated in this plan is to review the Rural Study Areas as listed in the 2007 Rural Land Study and make recommendations for possible changes in accordance with RES2009-040 (100,000 acre target), RES2011-023 (the Agricultural Strategic Plan), and RCW 36.70A.170 and .177. The AAC is in the midst of this process now.

Other immediate and short-term priorities articulated in the plan include developing tools that can be incentives for agricultural operators within the priority agricultural areas, including parcel reconfiguration. The Agricultural Parcel Reconfiguration tool is the first to come forward for consideration by the County Council. County staff, members of the AAC, BERK consulting, members of the interested public, and Planning Commissioners have been working for over a year to frame this task, consider the legal and technical context, and engage the broader public.

BERK Consulting prepared a "[Supplemental Analysis and Recommendations](#)" document on August 31, 2012 to provide updated information following the publication of the "[Situation Assessment: Incentives for Commercial Agriculture: Parcel Reconfiguration](#)," also prepared by BERK Consulting on May 31, 2012. Both of these documents contain important background information and legal analysis related to the draft ordinance under consideration.

In brief, the process has included:

- Research and Analysis February-May 2012; Situation Assessment: May 2012

- Project Review Team (made up of voting and ex-officio members of the AAC + staff/consultants)
 - February, April, July, October 2012
- Focus Group: March 2012
- Public Open House: May 2012
- Code Workshop: July 2012
- Planning Commission Work Sessions: July, Aug, Nov 2012, Jan, Feb 2013
- Planning Commission Public Hearings: Oct 2012, Feb 2013
- Website and email updates, and materials posted:
<http://www.whatcomcounty.us/pds/plan/lr/projects/agprogram/current-initiatives.jsp>

ISSUES

The issues under consideration focus on the following changes to existing code:

1. Farmstead Parcel AG (40) zone – allowed in advance of home being developed.
2. Ag Boundary Line Adjustment allowed in advance of a home being developed.
3. Parcel Reconfiguration – Add as a tool in AG (40) zone.
4. Require siting criteria for lot configuration.
5. Add exemption for divisions for only ag purposes.
6. Allow parcel reconfiguration as a boundary line adjustment process.

The above issues began as the focus, and have remained so throughout the process. Nonetheless, the proposed amendments before you reflect changes made between the time of introduction to the Planning Commission in August, and final recommendation in February. These changes were in response to both public comments and Planning Commissioner comments, and include:

- **Re-organization of the code** pertaining to the various agricultural division/modification types. Because of the degree of red-lining and confusion, staff has prepared a 'clean' copy of 20.40 and 20.97 only; please refer to the document entitled "Ag Parcel Reconfiguration WCC 20.40 "Clean" Re-organization," and focus on pages 2-7 in particular, which reflect a reorganization of 20.40.250-.256 in response to the Commission's request, including the addition of a table depicting allowed lot sizes, similar to that included with other zoning chapters.
- **Clarified plat and deed restriction** expectations (20.40.250(4)and(5));
- **Added tracking and management language** for ongoing review of the parcel reconfiguration procedure (20.40.254(4)(d));
- **Language related to divisions only for agricultural purposes** to apply to both divisions and boundary line adjustments was changed to include residential development only if property is over 40 acres (20.40.254(6)), and an exempt procedure was added for processing these divisions (21.01.040(2)(l));
- **Increased the number of reconfigured lots that can be together in a single development area** to four, while maintaining a maximum number of six reconfigured lots in a single application (20.40.650(2)(a));
- **Other code text changes**, including
 - clarification of the 1-to-3 acre allowance (20.40.251 table, .253, .254),
 - increasing the required number of ag-related purposes which parcel reconfigurations must achieve from two to four,

- o siting criteria changes (.650(2)(c)) to eliminate language “in the corners of the parent properties.”
- **Housekeeping:** subheadings, reference changes, grammatical and other language clarification

Additional comments were received and discussion engaged on other issues that were not in the end incorporated into the proposal before you:

- **Transfer of Development Rights** – Staff recommended changing the Official Whatcom County Zoning & Comprehensive Plan Map to add “and the Agriculture zone” to the text under TDR Sending Areas in lower right area of map. AAC members recommended including a TDR component allowing Ag-to-Ag or Ag-to-Rural transfers. Futurewise Whatcom recommended holding this Parcel Reconfiguration proposal until the existing county TDR program could be modified acceptably. In the end, none of these TDR components ended up being included with the Parcel Reconfiguration proposal. Staff sees value in the TDR approach as a mechanism that has the potential to move development away from our prime, commercial agricultural areas.

NEXT STEPS

The following materials are included with this memo:

- Planning Commission Staff Report
- Draft Ordinance
- Exhibit 1 (to both of the above) with the recommended code amendments
- “Clean” version of effected portions of WCC 20.40 (Ag zone) and WCC 20.97 (definitions) WITHOUT tracked changes shown

Please note that additional materials discussed with the Planning Commission may still be helpful references when considering the draft amendments before you, including the Situation Assessment and Supplemental Analysis from BERK mentioned above, and the draft application for Ag Parcel Reconfiguration distributed in November. These are all available through the ‘current initiatives’ link on the Agricultural Program website, located here:

<http://www.whatcomcounty.us/pds/plan/lr/projects/agprogram/index.jsp>

Staff looks forward to discussing these issues with you during the Planning Committee meeting on March 26, after which we hope to better understand your concerns, and also how you would like to proceed with scheduling further work sessions or public hearings.

Feel free to contact me (x51072) or Amy Keenan (x50264) with any questions.

Ag Parcel Reconfiguration WCC 20.40 “Clean” Re-organization
AGRICULTURE (AG) DISTRICT
with DEFINITIONS from WCC 20.97.132 and .133

**Re-organization of chapter showing clean (non-tracked) code changes through Jan 23,
and tracked code changes made on Jan 24 for *selected* chapters that are subject of the
Ag Parcel Reconfiguration proposed changes.**

Existing Ag District Sections:

<u>20.40.010</u>	Purpose.
<u>20.40.050</u>	Permitted uses.
<u>20.40.100</u>	Accessory uses.
<u>20.40.130</u>	Administrative approval uses.
<u>20.40.150</u>	Conditional uses.
<u>20.40.200</u>	Prohibited uses.
<u>20.40.250</u>	Minimum lot size and land subdivision.
<u>20.40.350</u>	Building setbacks.
<u>20.40.450</u>	Lot coverage.
<u>20.40.650</u>	Development criteria.
<u>20.40.651</u>	Landscaping.
<u>20.40.652</u>	Drainage.
<u>20.40.662</u>	Use of natural resources.

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20.40.010 Purpose.

The primary purposes of this district are to implement the agricultural designation of the Comprehensive Plan, established pursuant to RCW [36.70A.170](#), preserve, enhance and support the production of food and fiber in Whatcom County, to maintain a sufficiently large agricultural land base to ensure a viable agriculture industry and to maintain the economic feasibility of supporting services. Whatcom County supports agricultural activities as the highest priority use in the Agriculture District, with all other uses being subordinate to agricultural activities. Whatcom County seeks to minimize conflict with surrounding zoning districts, in conjunction with Chapter [14.02](#) WCC, Right to Farm. In order to limit the further fragmentation of the commercial agricultural land base, the Agriculture District includes smaller areas of land with poorer quality soils or nonagricultural uses, which do not meet the definition of agriculture lands of long-term commercial significance.

A secondary purpose of this district is to serve as a holding district when located within the urban growth area Comprehensive Plan designation to allow agricultural uses in the near term while protecting the area from suburban sprawl and preserving the potential for future urban development consistent with the protection of the resource land. (Ord. 2009-071 § 2 (Exh. B), 2009; Ord. 2005-079 § 1, 2005; Ord. 2001-020 § 1 (Exh. 1 § 1), 2001).

....

20.40.250 Division or Modification of Parcels

It is the intent of this section to allow divisions which benefit the long-term viability of agriculture. This section describes the requirements for division or modification of parcels within the agricultural district that are either consistent with the minimum lots size or would result in substandard parcels or make existing substandard parcels further substandard.

Requests for land division, boundary line adjustment, or agricultural parcel reconfiguration in the Agriculture District shall be made on forms provided by the department and will be reviewed administratively. All divisions must comply with the following provisions:

- (1) **Agricultural Divisions.** All divisions of land in the Agriculture District shall proceed in accordance with the local and state subdivision laws.
- (2) **Allowable Density.** No division, boundary line adjustment, or agricultural parcel reconfiguration shall result in an increase in allowable density.
- (3) **Additional Acreage.** Additional acreage gained through a boundary line adjustment or agricultural parcel reconfiguration shall not be considered in the total acreage calculations for determining density.
- (4) **Plat Restrictions.** The following plat restriction is required, prior to recording, on the nonresidential lot of all divisions of land provided for in WCC [20.40.254\(2\)](#):

No further division or residential structure shall be allowed on this parcel unless and until changes in the zoning of this property occur consistent with State and local laws which would result in additional development density, in which case this restriction shall be null and void, and density and uses of the new zone shall apply to the property upon review by the Whatcom County zoning administrator.

- (5) **Deed Restrictions.** Deed restrictions are required for all boundary line adjustments or agricultural parcel reconfigurations allowed under WCC [20.40.254 \(3\) and \(4\)](#).

- (a) The following language must be recorded separately and placed by reference of auditors file number on the deed, and placed on the tract map of the nonresidential portion of the adjusted parent parcels prior to recording:

The development density of the original parcel (parent parcel) remains with legal description _____. The _____ (# of acres) appended through boundary line adjustment [or agricultural parcel reconfiguration] to legal description _____ (receiving parcel) shall not be included in calculations to determine total development density for the receiving parcel.

- (b) The following deed restriction language must be recorded separately and placed by reference of auditors file number on the deed, and is required when there is no additional means to further subdivide the property due to the parcel sizes and density standards of this zone:

No further division or residential structure shall be allowed on this parcel unless and until changes in the zoning of this property occur consistent with State and local laws which would result in additional development density, in which case this restriction shall be null and void, and density and uses of the new zone shall apply to the property upon review by the Whatcom County zoning administrator.

20.40.251 Minimum Lot Size.

The minimum lot size in the Agriculture District is 40 acres, except as provided for in WCC 20.40.253 and .254. The creation of a lot less than the minimum size is permitted only when the subject application meets the standards contained in WCC 20.40.253, .254 and .650 as applicable.

Parcel	Minimum Lot Size	Minimum Lot Size Exceptions
Conventional Parcel	40 acres	Reconfiguring existing nonconforming parcels
Farmstead Parcels Created through Agricultural Short Subdivision or Agricultural Boundary Line Adjustment		
Farmstead Parcel – Parent Parcel with Existing Farmstead with public water	1 acres	Up to 3 acres pursuant to WCC 20.40.253 (1),(2) & (4)
Farmstead Parcel – Parcel with Existing Farmstead without public water	2 acres	Up to 3 acres pursuant to WCC 20.40.253 (1)-(4)
Farmstead Parcel – Parent Parcel without Existing Farmstead with public water	1 acre	Up to 2 acres pursuant to WCC 20.40.253 (1) & (2)
Farmstead Parcel – Parcel without Existing Farmstead without public water	2 acres	Up to 3 acres pursuant to WCC 20.40.253 (1),(2) & (3)

Parcels Created Through Agricultural Parcel Reconfiguration		
Reconfigured Parcel - reconfiguration with public water	1 acre	N/A
Reconfigured Parcel - reconfiguration without public water	1 acre	Up to 2 acres pursuant to WCC 20.40.253 (1),(2) & (3)
Parcel Created for Agricultural Purposes Only		
Created Parcel with deed restriction for no residential buildings	10 acres	N/A

20.40.252 Minimum lot width and depth.

(1) For parcels created consistent with the minimum lot size the: The minimum length to width ratio is 1/5. The terms “length” and “width” refer to the average length and average width of the parcel.

(2) For lots created or rearranged pursuant to WCC 20.40.254, the following lot width and depth shall apply:

Minimum Width at Street Line	Minimum Width at Bldg. Line	Minimum Mean Depth
70' [A]	80'	100'

[A] Applies only to land divisions or parcel reconfigurations where the parcel(s) does not contain a farmstead homesite at the time of the application.

20.40.253 Farmstead or Reconfigured Parcel Minimum Lot Size Exceptions

The base maximum for the farmstead parcel shall be consistent with the minimum lots size in 20.40.251, except as follows:

- (1) A greater area is determined necessary by the health officer pursuant to Chapter 24.05 On-Site Sewage System Regulations;
- (2) A greater area is determined necessary by the responsible official to accommodate a driveway or other access necessary for the farmstead parcel;
- (3) For farmstead parcels without public water: Unless substantial evidence is provided by the responsible official indicating the location is not feasible, wells and wellhead protection zones shall also be located within farmstead parcel. Wells located outside of the farmstead parcel area shall be sited to minimize potential impacts on agricultural activities.
- (4) For farmstead parcels with existing farmstead homesites: There is an existing agricultural structure(s) within the farmstead parcel and any of the following criteria are met:
 - (a) The separation between the agricultural structure(s) and the primary residential structure is less than 150 feet; or
 - (b) Current use of the agricultural structure(s) is not related to an agricultural activity; or

- (c) There is a low potential for future use of the agricultural structure(s) to be associated with an agricultural activity due to physical condition or compatibility with agricultural practices; or
- (d) Water is not available for use at the agricultural structure(s).

20.40.254 Separation of the Farmstead Parcel Criteria:

(1) The criteria for approval for the farmstead parcel and remainder parcel created through Agricultural Boundary Line Adjustment, Agricultural Short Subdivision and Agricultural Parcel Reconfiguration shall be the following:

- (a) The area of the parcel containing the farmstead home site, whether the home exists or is to be added, is limited to the minimum amount required to encapsulate structures, parking areas, driveways, septic systems, wells, and landscaping required setbacks; and
- (b) The farmstead parcel size shall be as stated in WCC 20.40.251, unless the existing residential structure(s) and/or well and septic constraints require a larger parcel, but shall not exceed the maximum lot size consistent with the exceptions in WCC 20.40.253; and
- (c) The farmstead parcel and farmstead home site meet the siting criteria contained in WCC 20.40.650; and
- (d) A remainder parcel shall be created equal to or greater than 10 nominal acres; and
- (e) The remainder parcel shall have no existing residential development and no development rights, and a condition containing the language as provided in WCC 20.40.250(4) or (5) shall be included on the short plat, boundary line adjustment, or agricultural parcel reconfiguration for the remainder parcel prior to final approval; and
- (f) The applicant and his or her heirs provide right of first purchase for a period of not less than 60 days through deed restriction to the original purchaser and subsequent purchasers of the remainder parcel for purchase of the farmstead parcel before they are offered on the open market; and
- (g) A right to farm disclosure statement as provided for in WCC 14.02.040(B) will be signed by the farmstead parcel owner and subsequent purchasers of the farmstead parcel, and recorded as per WCC 14.02.040(A)(1) and 14.02.050; and
- (h) All land division shall comply with the appropriate map and recording provisions of WCC Title 21; and
- (i) The overall submittal shall comply with WCC 20.40.250 et seq.

(2) **Agricultural Short Subdivisions.** Agricultural Short subdivisions for the purpose of reducing the acreage below the minimum lot size as provided by WCC 20.40.251 for a farmstead homesite shall comply with the following provisions:

- (a) The minimum parcel size is the area necessary to accommodate a house site which meets the applicable dimensional requirements of all applicable code and provides a remainder (appended) parcel equal to or greater than 10 nominal acres; and
- (b) The short subdivision application shall meet the size and performance standards of WCC 20.40.650.

(3) **Boundary Line Adjustments.** Boundary line adjustments for the purpose of reducing the acreage below the minimum lot size as provided by WCC 20.40.251 of an existing or proposed farmstead parcel if such boundary line adjustment complies with the following provisions:

- (a) Boundary line adjustments shall not make a lot substandard or further substandard, except as provided for in WCC [20.40.251](#).
- (b) The minimum parcel size is the area necessary to accommodate a house site which meets the applicable dimensional requirements of all applicable codes and provides a remainder (appended) parcel equal to or greater than 10 nominal acres; and
- (c) The farmstead parcel and boundary line adjustment application shall meet the size and performance standards of WCC 20.40.250 and .251, and the siting criteria of WCC 20.40.650.

(4) **Agricultural Parcel Reconfiguration:** Parcels are reconfigured and finalized according to the agricultural parcel reconfiguration process established in Chapter 21.03, Exempt Land Divisions, Boundary Line Adjustments, and Agricultural Parcel Reconfigurations, and when meeting the following performance standards:

- (a) Existing parcels to be reconfigured are:
 - (i) Smaller than the minimum lot size established for new lots in the Agriculture district. Parcels which meet the minimum lot size may be adjusted as a part of this process, provided the reconfiguration meets the provisions of (4)(b) below;
 - (ii) Determined to be legally created and buildable pursuant to WCC Title 21.01.180.
- (b) Proposed parcel(s) results in the following:
 - (i) No additional parcels; and
 - (ii) A remainder parcel shall be created equal to or greater than 10 nominal acres; and
 - (iii) The siting criteria of WCC 20.40.650 are met and development standards of WCC 20.40.252 et seq. are met; and
 - (iv) The reconfiguration shall result in achieving four (4) or more of the identified agricultural-related purposes as follows:
 - (A) Expand the amount of commercially viable resource land under contiguous single ownership; and/or
 - (B) Protect and buffer designated resource lands; and/or
 - (C) Reduce impervious surfaces, such as by reducing the amount of road and utility construction required to serve reconfigured lots, or by reducing the amount impervious area for nonagricultural uses that could otherwise occur without parcel reconfiguration; and/or
 - (D) Reduce the total number of lots of record through voluntary consolidation; and/or
 - (E) Produce a farm management plan approved through the Whatcom Conservation District or WA Department of Agriculture that demonstrates increased viability of the agricultural operation through the agricultural parcel reconfiguration; and/or
 - (F) Enable improved floodplain management in cooperation with Whatcom County Public Works; and

(viii) Reconfigured lots shall not be further adjusted by boundary line adjustment without approval under this section.

(c) The responsible official may impose conditions, consistent with Whatcom County Code, on the agricultural parcel reconfiguration to further the purposes of this section.

(d) Parcel reconfigurations will be tracked by County Planning and Development Services so the procedure can be adaptively managed by review of all projects passed per this code in year 2017.

(5) **Public Facility.** The division is for the purpose of public facilities for health and safety use or expansion of such uses; provided, that:

(a) The division or boundary line adjustment will not adversely affect the surrounding agricultural activities; and

(b) The applicant has demonstrated to the administrator's satisfaction that the siting of the proposed use cannot be located in an adjacent zoning district or alternative site, if the area is intensively farmed.

(6) **Division or Boundary Line Adjustment for Agricultural Purposes Only.** Lots smaller than the minimum lot size of WCC 20.40.251 may be created through land division or re-arranged through a boundary line adjustment provided the following:

(a) The parent parcel does not contain an existing residence, or said existing residence will remain on a parcel larger than 40 acres in size; and

(b) The parcel created is greater than 10 acres or is appended to another parcel; and

(c) There is a properly executed deed restriction which runs with the land on lots which have been created through the division or modified by the boundary line adjustment, except those lots at or over 40 acres in size that maintain an associated development density. Such deed restriction shall be substantially similar to that listed under 20.40.250(5), approved by the zoning administrator and recorded with the County Auditor specifying:

(i) All land divided or parcels adjusted are to be used exclusively for agricultural or flood management purposes and specifically not for a dwelling(s), and

(ii) All land divided or parcels adjusted shall have no residential density, and

(iii) For land divisions, the acreage of the newly created parcels shall not be included in calculations to determine total development density in the future, and

(iv) For boundary line adjustments, the acreage of the newly created parcel and appended portion shall not be included in calculations to determine total development density in the future.

20.40.255 Consolidation of Adjacent Tracts.

Consolidation of adjacent tracts in the same ownership shall be required in accordance with 20.83.070 in approval of any subdivision, short subdivision, agricultural parcel reconfiguration, or boundary line adjustment in the Agricultural District. The County may waive the permit fee for a boundary line adjustment or agricultural parcel reconfiguration where adjacent lots of record are not in the same ownership and are consolidated voluntarily for purposes of the agricultural parcel reconfiguration, or boundary line adjustment.

20.40.256 Establishing Intent.

The burden of establishing intent in and legal proceeding relating to a transaction accomplished or proposed under the authority of this section shall be upon the land owner or purchaser.

20.40.350 Building setbacks.

Building setbacks shall be administered pursuant to WCC [20.80.200](#) (Setback Requirements). Building setbacks for parcels of less than five nominal acres shall be administered pursuant to WCC 20.80.250.

20.40.450 Lot coverage.

No structure or combination of structures, including accessory buildings, shall occupy or cover more than 25 percent of the total area of the subject parcel. Exceptions to the maximum lot coverage may be allowed when any of the following can be demonstrated:

- (1) Proposed structures, in excess of the allowed maximum lot coverage, are located on lesser quality soils.
- (2) Proposed structures in excess of the allowed maximum lot coverage support additional agricultural production on parcels other than the subject parcel.
- (3) Expansion of facilities that were in operation prior to the adoption of the ordinance codified in this section if it can be demonstrated that substantial on-site investment has been made and location of additional structures off-site would cause an economic hardship to the farm operation.

20.40.650 New or Modified Parcel Siting Criteria

The location of vacant farmstead parcels or parcels arranged through agricultural parcel reconfiguration (which may or may not be vacant) shall be consistent with the following siting criteria and standards:

- (1) **Minimum Lot Size.** Parcels shall be consistent with WCC 20.40.251.
- (2) **Parcel Design.** Parcels shall be located and arranged to provide the maximum protection of agricultural land located both on and off-site. Parcel design and development shall be as follows:
 - (a) The residential parcels shall be configured so that property lines are immediately adjacent and physically contiguous to each other. A maximum of two development areas containing no more than four (4) lots may be allowed. The two development areas shall contain no more than a total of six lots, and shall be separated by a minimum of 500 feet to minimize the visibility of the future development and reinforce the purposes of the zone; provided that reductions in the separation standard by up to 10% are allowed if an applicant can demonstrate that the future development visibility from the public right of way or from neighboring properties is minimized and the purposes of the parcel reconfiguration in WCC 20.40.254(4)(b)(iv) are met; and
 - (b) Residential parcels shall be located as close as possible to existing public roads, or if none abut the property then to existing access roads. New road or driveway development shall be avoided to the maximum extent feasible; and
 - (c) Except for parcels that recognize existing farmsteads, residential parcels shall be located to the extent feasible to maximize the remainder lot configuration and farmable area; and

- (d) Except for reconfigured parcels that recognize existing farmsteads, each reconfigured parcel shall be limited to one single family residence and residential accessory structures; and
 - (e) Residential building sites shall maintain sufficient separation from on-site and off-site agricultural resources and exterior property lines. The setback, lot coverage, and height standards for reconfigured lots shall be as established in WCC 20.40.350 to 450; and
 - (f) Applicants shall verify that reconfigured parcels or farmstead parcels do not prohibit access to a point of withdrawal for any irrigation water rights certificates, claims, permits, or applications on the affected parcels; and
 - (g) All development shall be consistent with WCC Chapter 16.16; and
 - (h) The farmstead parcel or reconfigured parcels avoid prime soils to the extent feasible. Where the site is predominantly in prime soils and such cannot be avoided, the applicant shall demonstrate that:
 - (i) the parcels are sized to be as small as feasible pursuant to WCC 20.40.251; and
 - (ii) located to maximize the agricultural use of the remainder lot; and
 - (iii) achieve the most suitable locations for parcels in terms of minimizing roads, allowing for water availability, and septic suitability.
- (3) Substitute Parcel Design Standards. Applicants proposing a farmstead parcel or agricultural parcel reconfiguration may propose a substitute performance standard in place of a listed standard in .650 (New or Modified Parcel Siting Criteria) provided that the applicant submits a written justification demonstrating the substitute standard better or equally meets the purposes of the zone in WCC 20.40.010 and the agricultural-related purposes described in WCC 20.40.254(4)(b)(iv); except under no condition shall more than the maximum of six (6) residential parcels with no more than four (4) lots in one development area be allowed. Such substitution shall be considered at the Administrator’s discretion.

Chapter 20.97 DEFINITIONS

Zoning Definitions

20.97.132 Farmstead parcel.

The “farmstead parcel” is the legally subdivided portion of the parent parcel containing an existing or planned farmstead home site. (Ord. 2005-073 § 1, 2005; Ord. 2001-020 § 1 (Exh. 1 § 3), 2001).

20.97.133 Farmstead home site.

The “farmstead home site” includes that portion of the parent parcel used for existing or planned residential buildings, uses accessory to residential buildings, drainfields, wells, wellhead protection area(s), established landscaped areas contiguous with the non-agricultural built area, and structures as allowed in WCC 20.40.253. (Ord. 2005-073 § 1, 2005).

WHATCOM COUNTY PLANNING & DEVELOPMENT SERVICES STAFF REPORT

I. BACKGROUND INFORMATION

File # PLN2012-00007

File Name: Agricultural Strategic Plan Implementation: Parcel Reconfiguration

Applicant: Whatcom County Planning & Development Services

Summary of Request:

Amend the Official Whatcom County Zoning (Title 20) and Subdivision (Title 21) Ordinances to address the Parcel Reconfiguration task as recommended in the Ag Strategic Plan by:

1. Modifying the Agriculture Farmstead division and boundary line adjustment policies to allow for a parcel to be created in advance of a home being built,
2. Creating a new Agricultural Parcel Reconfiguration Tool that is procedurally treated similar to Boundary Line Adjustments, and
3. Adding agricultural siting criteria for new or modified parcels.

The above are reflected in the attached amendments to:

Chapter 20.40 Agricultural District (AG);
Chapter 20.80 Supplementary Requirements;
Chapter 20.83 Nonconforming Uses and Parcels;
Chapter 20.97 Definitions;
Chapter 21.01 General Provisions;
Chapter 21.03 Exempt Land Divisions, Boundary Line Adjustments; and
Chapter 21.04 Short Subdivisions

Location:

This is a zoning text amendment. All areas within the Agriculture (AG) District would be affected.

Staff Recommendation:

Staff recommends approval of the proposed amendment.

II. ANALYSIS OF THE PROPOSED AMENDMENT

Through Resolution 2009-040, the Whatcom County Council confirmed that 100,000 acres of land available for agricultural use is the minimum goal for ensuring a land base necessary to support a viable agriculture industry in Whatcom County. The Council also endorsed the identified tools and strategies presented by the

Agricultural Land Program Technical Review Committee and the Agricultural Advisory Committee for further development and consideration, requesting that the County Executive authorize County Planning and Development Services staff to work with Council staff and the Agricultural Advisory Committee to develop and recommend appropriate code changes and comprehensive plan amendments enabling implementation of policies to strengthen the protection of agricultural land for agricultural use to include further defining the relationship between protecting agricultural land and critical areas.

Through Resolution 2011-023, the Whatcom County Council endorsed the Whatcom County Agricultural Strategic Plan, developed by the Agricultural Advisory Committee and Planning and Development Services Department Staff. The plan describes "the role Whatcom County Planning and Development Services will play in implementing an agricultural program consistent with County Council Resolution 2009-040 and Comprehensive Plan goals." A short-term priority in the strategic plan is to develop recommendations on parcel reconfiguration to "allow reconfiguration of parcels (within and across ownership) to place the existing development potential in areas that are the least valuable as farm land."

These proposed code changes come forward as a result of Agricultural Advisory Committee recommendations, consistent with Council resolutions 2009-040 and 2011-023, and with the benefit of broad public input.

Proposed zoning amendments must be consistent with applicable provisions of the Growth Management Act. Additionally, pursuant to the Growth Management Act and WCC 20.90.050(4), zoning amendments must be consistent with and implement the Whatcom County Comprehensive Plan. Finally, the staff report must consider environmental implications as identified by the Whatcom County SEPA Official.

A. The amendment conforms to applicable requirements of Growth Management Act (GMA).

GMA Planning Goal (RCW 36.70A.020) 8 is to "Maintain and enhance natural resource-based industries, including productive timber, agricultural, and fisheries industries. Encourage the conservation of productive forest lands and productive agricultural lands, and discourage incompatible uses."

Goal 8 is one of thirteen planning goals to guide the development and adoption of comprehensive plans and development regulations. Because the proposed amendments affect agricultural lands of long term commercial significance, Goal 8 is a driver behind the amendments, though the proposed amendments reflect a balance of these GMA goals; primarily: (2) Reduce sprawl, (6) Property rights, (7) Permits, (8) Natural resource industries, (10) Environment, and (11) Citizen participation and coordination.

The GMA and implementing state administrative rules guide the designation and regulation of resource lands including agricultural lands:

- The County is to designate resource lands consistent with minimum guidelines in chapter 365-190 WAC.
- The County is also required to adopt development regulations that assure the conservation of designated agricultural, forest, and mineral lands of long-term commercial significance (RCW 36.70A.060).
- Natural resource uses have preferred and primary status in designated natural resource lands. Counties and cities must determine if and to what extent other uses will be allowed. If other uses are allowed, counties and cities should consider using innovative land management techniques that minimize land use incompatibilities and most effectively maintain current and future natural resource lands (WAC 365-190-040).
- Regulations for the conservation of natural resource lands may not prohibit uses legally existing on any parcel prior to their adoption (RCW 36.70A.060).
- Development regulations must assure that the planned use of lands adjacent to natural resource lands will not interfere with the continued use, in the accustomed manner and in accordance with best management practices, of these designated lands (RCW 36.70A.060).
- Counties and cities are encouraged to use a coordinated program that includes non-regulatory programs and incentives to supplement development regulations to conserve natural resource lands (WAC 365-196-480).
- Counties may use innovative zoning techniques designed to conserve agricultural lands and encourage the agricultural economy (RCW 36.70A.177). Examples of innovative zoning techniques include:
 - Agricultural zoning, which limits the density of development and restricts or prohibits nonfarm uses of agricultural land and may allow accessory uses, including nonagricultural accessory uses and activities, that support, promote, or sustain agricultural operations and production;
 - Cluster zoning, which allows new development on one portion of the land, leaving the remainder in agricultural or open space uses;
 - Large lot zoning, which establishes as a minimum lot size the amount of land necessary to achieve a successful farming practice;
 - Quarter/quarter zoning, which permits one residential dwelling on a one-acre minimum lot for each one-sixteenth of a section of land;
 - Sliding scale zoning, which allows the number of lots for single-family residential purposes, with a minimum lot size of one acre, to increase inversely as the size of the total acreage increases; and

- The transfer or purchase of development rights from agricultural lands, which can be used through cooperative agreements with cities, or counties with non-municipal urban growth areas, as receiving areas for the use of these development rights.

Innovative zoning techniques are under consideration as part of the subject agricultural parcel reconfiguration proposed amendment. The GMA provides some flexibility for the County to allow landowners to vary from minimum lot sizes, in individual cases, as long as:

- The County provides appropriate standards with reasonable limits that protect the area's character and that conserve agricultural lands;
- The County does not allow the overall pattern of lot sizes and densities to be materially changed, to the detriment of rural character or agricultural conservation; and
- Where appropriate, the County requires compensating areas to be set aside and permanently dedicated to agricultural or open space uses.

B. The amendment is consistent with and implements the Whatcom County Comprehensive Plan.

The following goals and policies from the Comprehensive Plan are most directly relevant to the proposed amendment:

Goal 8A – Conserve and enhance Whatcom County's agricultural land base for the continued production of food and fiber.

Policy 8A-4: Discourage conversion of productive agricultural land to incompatible nonagricultural uses.

Policy 8A-6: Prioritize agricultural activity in land use decisions when land is composed of prime and/or productive agricultural soils and agriculture is the highest value resource use.

Policy 8A-7: Establish flexibility in land use plans and regulations to encourage maintenance of the productive agricultural land base.

Policy 8A-12: The Agricultural Advisory Committee shall advise the Whatcom County Executive and Council on agricultural issues and agricultural land use. Whatcom County shall support the Agricultural Advisory Committee with staff and other resources.

GOAL 8C: Preserve and enhance the cultural heritage that is related to agriculture.

Policy 8C-1: Find ways for retiring farmers to pass their farms on to their children and for young farmers to be able to afford to buy productive farmland.

Policy 8C-2: Identify, preserve, and enhance community character, landscape, and buildings associated with agricultural activity.

Policy 8C-3: Involve those who actually are engaged in agricultural activities in the planning process. Utilize groups working effectively with the agricultural community to help preserve and/or create a sustainable economic agricultural base.

Policy 8C-4: Support the continuation of owner occupied/family owned farms.

GOAL 8D: Reduce land use conflicts between Whatcom County's agriculture and non-agricultural landowners.

Policy 8D-1: Work to reduce conflicts between incompatible agricultural activities by establishing zoning regulations which protect productive agricultural lands of long-term commercial significance from conversion to non-compatible uses. This zoning should recognize the diversity of agricultural landowners and agricultural land uses. This zoning should provide flexible regulations, which encourage all agricultural landowners to maintain the productive agricultural land base while protecting them from conflicting uses.

Policy 8D-6: Support agricultural activity in mixed farm/rural residential areas, with the understanding that certain farm practices may conflict with other neighboring rural land uses.

Whatcom County's Comprehensive Plan Resource Lands Element contains a chapter devoted to Agricultural Lands. The proposed amendments are intended to allow for maximizing available land for farming operations, and minimize impacts of residential development on farm land and farming operations while continuing to allow legal existing uses. The amendments were developed through the recommendations of the County Agricultural Advisory Committee.

The proposed amendments respond to public input from farmers, agricultural land owners, and the public by providing opportunities for smaller lot sizes that may be easier to finance for farming purposes while allowing existing residential development potential in a way that is minimally disruptive to the agricultural activities. They prioritize agricultural activities while providing flexibility and recognizing existing legal lots. They are intended to provide a flexible alternative to larger-lot residential development in a manner that encourages the conservation of the productive agricultural lands.

C. Consideration of environmental implications as identified by the Whatcom County SEPA Official.

The SEPA Determination of Nonsignificance was issued on August 23, 2012.

III. PROPOSED FINDINGS OF FACT AND REASONS FOR ACTION

1. The Whatcom County Agricultural Strategic Plan was developed by the county's Agricultural Advisory Committee made up of farmers and farming industry representatives appointed by the Whatcom County Executive and affirmed by the County Council.
2. The Agricultural Strategic Plan was supported by the County Executive and endorsed by the County Council on July 26, 2011 through Resolution 2011-023.
3. The Agricultural Strategic Plan built upon previous work within the agricultural community including the Rural Land Study (2007; endorsed through Council Resolution 2009-040), and an examination of the existing potential residential development within the agricultural areas of the county as described in four White Papers delivered to the WA State Office of Farmland Preservation in January 2009 and posted on the county's [Agricultural website](#) since that time.
4. The examination of existing development potential was initiated in 2008 through a stakeholder and public process conducted by Whatcom Farm Friends (county contract number 200711051), wherein tools were identified with the goals of both retiring and accommodating existing development potential in ways that benefit agriculture. Tools that retire existing development potential were identified as options to reduce the overall development potential within the agricultural areas, assisting the farming industry by reducing the potential for uses that may conflict with agricultural activities. Accommodation tools were identified as potential options that assist the farming industry through various incentives that neither reduce nor add density to the agricultural areas.
5. The Agricultural Strategic Plan contains a number of priority tasks, one of which is "Parcel Reconfiguration tool development" which was intended to allow the reconfiguration of parcels within and across ownership, to place the existing development potential in areas that are the least valuable as farm land; accommodating existing development potential in a manner that better fits with the farming operation.
6. A Project Review Team consisting of County staff, Agricultural Advisory Committee (AAC) representatives, and a Whatcom Farm Friends representative met throughout the process with assistance from BERK Consulting to review objectives and draft documents. Meeting dates were: February 15, April 12, May 10, and July 26, 2012. This team continued to meet without the assistance from BERK Consulting as a subcommittee of the AAC.
7. A Determination of Nonsignificance (DNS) was issued under the State Environmental Policy Act (SEPA) on August 23, 2012.

8. The preliminary project plan was posted on the county website on March 6, 2012, updated periodically, with draft alternative code amendments added on March 27, 2012 and subsequently updated.
9. A Focus Group meeting conducted by BERK Consulting was held on March 5, 2012 with nine experts in Whatcom County agricultural land use, development, and financing to brainstorm how parcel reconfiguration could work to allow rearrangements of parcels (within and across ownership) to place the existing development potential in areas that are the least valuable as farmland, in a manner that benefits the County and the landowner and is consistent with other state and local priorities.
10. A Public Open House concerning the project and draft alternatives was held at Cornwall Church on May 3 at 6:30 PM, with notice posted on the County website and sent to citizen, media and other groups on the County's e-mail list on April 19, 2012.
11. A document entitled "Situation Assessment: Incentives for Commercial Agriculture: Parcel Reconfiguration" (Situation Assessment) identifying the current conditions, parcel reconfiguration objectives, key issues, recommendations, public process, draft code amendments, and analyzing Growth Management Act and Hearings Board cases and other jurisdictional examples was published on May 31, 2012 by BERK Consulting and posted on the County website on June 8, 2012.
12. The Situation Assessment contains a list of principles used to help guide the parcel reconfiguration work program:
 - Increase the long-term viability of agriculture while recognizing underlying economic realities.
 - Provide more flexibility/incentives for homes, placed with the least impact to agricultural operations.
 - Reduce potential conflicts with neighbors.
 - Ensure parcel reconfiguration tools are "density neutral."
 - Overarching principles should drive the regulations (e.g. equal to or better than...).
 - Honor and protect property rights and values to help farmers stay in business.
13. Notice of the subject amendment was submitted to the Washington State Department of Commerce on June 7, 2012.
14. The Planning Commission held a work session on July 12, 2012 to discuss the Agricultural Strategic Plan, including background information and all priority tasks. Notice was posted on the County website, and was sent to citizen, media and other groups on the County's e-mail list on June 27 and on July 5, 2012.
15. A Code Development Technical Workshop open to the public was held on July 16, 2012 to further discuss proposed code amendments, with notice posted on the

- County website and sent to citizen, media and other groups on the County's e-mail list on June 27 and on July 10, 2012.
16. The Planning Commission held work sessions on August 9, 2012, November 15, 2012, January 24, 2013, and February 14, 2013, to discuss the Parcel Reconfiguration tool and draft code amendments. Notice of these meetings was posted on the County website, and was sent to citizen, media and other groups on the County's e-mail list prior to the meetings in accordance with general practices.
 17. A Supplemental Analysis and Recommendations document was published on August 31, 2012 to provide updated information following the publication of the "Situation Assessment: Incentives for Commercial Agriculture: Parcel Reconfiguration" prepared by BERK Consulting. The Supplemental Analysis was posted on the County website on September 20, 2012.
 18. The Planning Commission held a public hearing on the subject amendment on October 25, 2012. Notice of the Planning Commission hearing was sent to the county email list which includes City representatives from Lynden, Ferndale, Everson, Nooksack and Sumas; citizens; media; and other group representatives on October 4, 2012. Notice of the Planning Commission hearing for the subject amendment was posted on the County website on October 17, 2012. Notice of the Planning Commission hearing for the subject amendment was published in the Bellingham Herald on October 12, 2012.
 19. The Planning Commission held a second public hearing on the subject amendment on February 28, 2013. Notice of the Planning Commission hearing was sent to the county email list which includes City representatives from Lynden, Ferndale, Everson, Nooksack and Sumas; citizens; media; and other group representatives on February 20, 2013. Notice of the Planning Commission hearing for the subject amendment was posted on the County website on February 19, 2013. Notice of the Planning Commission hearing for the subject amendment was published in the Bellingham Herald on February 17, 2013.
 20. In order to approve the zoning amendment, the County must find that it is consistent with the Growth Management Act (GMA). Additionally, the County must find that the zoning amendment is consistent with and implements the Whatcom County Comprehensive Plan.
 21. The GMA (RCW 36.70A.020) lists thirteen planning goals to guide the development and adoption of comprehensive plans and development regulations. The proposed amendments reflect a balance of these planning goals; primarily: (2) Reduce sprawl, (6) Property rights, (7) Permits, (8) Natural resource industries, (10) Environment, and (11) Citizen participation and coordination.
 22. The GMA (RCW 36.70A.030) contains a definition for "agricultural land" meaning "land primarily devoted to the commercial production of

horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW [84.33.100](#) through [84.33.140](#), finfish in upland hatcheries, or livestock, and that has long-term commercial significance for agricultural production.”

23. The GMA guides the adoption of development regulations to assure the conservation of designated agricultural, forest, and mineral lands of long-term commercial significance. Both the GMA and Washington Administrative Code (WAC) offer specific guidance:
 - Development regulations must assure the conservation of agricultural lands (RCW 36.70A.060).
 - Natural resource uses have preferred and primary status in designated natural resource lands. Counties and cities must determine if and to what extent other uses will be allowed. If other uses are allowed, counties and cities should consider using innovative land management techniques that minimize land use incompatibilities and most effectively maintain current and future natural resource lands (WAC 365-190-040).
 - Regulations for the conservation of natural resource lands may not prohibit uses legally existing on any parcel prior to their adoption (RCW 36.70A.060).
 - Development regulations must assure that the planned use of lands adjacent to natural resource lands will not interfere with the continued use, in the accustomed manner and in accordance with best management practices, of these designated lands (RCW 36.70A.060).
 - Counties and cities are encouraged to use a coordinated program that includes non-regulatory programs and incentives to supplement development regulations to conserve natural resource lands (WAC 365-196-480).
24. The GMA (RCW 36.70A.177) encourages counties to consider use of innovative zoning techniques designed to conserve agricultural lands and encourage the agricultural economy, and requires accessory uses to be limited according to the section.
25. Consultant attorney review concluded that the GMA provides some flexibility for the County to allow landowners to vary from minimum lot sizes in individual cases, as long as:
 - The County provides appropriate standards with reasonable limits that protect rural character (such as siting criteria that are consistent with the County’s definition for “rural character”) and that conserve agricultural lands;

- The County does not allow the overall pattern of lot sizes and densities to be materially changed, to the detriment of rural character or agricultural conservation; and
- Where appropriate, the County requires compensating areas to be set aside and permanently dedicated to agricultural or open space uses.

26. Whatcom County Comprehensive Plan Goal 8A is to: **Conserve and enhance Whatcom County's agricultural land base for the continued production of food and fiber. Additionally, the following policies are relevant to the proposed amendments:**

Policy 8A-4: Discourage conversion of productive agricultural land to incompatible nonagricultural uses.

Policy 8A-6: Prioritize agricultural activity in land use decisions when land is composed of prime and/or productive agricultural soils and agriculture is the highest value resource use.

Policy 8A-7: Establish flexibility in land use plans and regulations to encourage maintenance of the productive agricultural land base.

Policy 8A-12: The Agricultural Advisory Committee shall advise the Whatcom County Executive and Council on agricultural issues and agricultural land use. Whatcom County shall support the Agricultural Advisory Committee with staff and other resources.

The proposed amendment developed through the recommendations of the County Agricultural Advisory Committee prioritizes agricultural activities while providing land owner flexibility and recognizing existing legal lots.

27. Whatcom County Comprehensive Plan GOAL 8C is to: **Preserve and enhance the cultural heritage that is related to agriculture. Additionally, the following policies are relevant to the proposed amendments:**

Policy 8C-1: Find ways for retiring farmers to pass their farms on to their children and for young farmers to be able to afford to buy productive farmland.

Policy 8C-2: Identify, preserve, and enhance community character, landscape, and buildings associated with agricultural activity.

Policy 8C-3: Involve those who actually are engaged in agricultural activities in the planning process. Utilize groups working effectively with the agricultural community to help preserve and/or create a sustainable economic agricultural base.

Policy 8C-4: Support the continuation of owner occupied/family owned farms.

The proposed amendment responds to public input from farmers, agricultural land owners, and the public by providing opportunities for smaller lot sizes that may be easier to finance for farming purposes while allowing existing residential development potential in a way that is minimally disruptive to the agricultural activities.

28. Whatcom County Comprehensive Plan GOAL 8D is to: **Reduce land use conflicts between Whatcom County's agriculture and non-agricultural landowners**. Additionally, the following policies are relevant to the proposed amendments:

Policy 8D-1: Work to reduce conflicts between incompatible agricultural activities by establishing zoning regulations which protect productive agricultural lands of long-term commercial significance from conversion to non-compatible uses. This zoning should recognize the diversity of agricultural landowners and agricultural land uses. This zoning should provide flexible regulations, which encourage all agricultural landowners to maintain the productive agricultural land base while protecting them from conflicting uses.

Policy 8D-6: Support agricultural activity in mixed farm/rural residential areas, with the understanding that certain farm practices may conflict with other neighboring rural land uses.

The proposed amendment provides a flexible alternative to larger-lot residential development in a manner that encourages the conservation of the productive agricultural lands.

IV. PROPOSED CONCLUSIONS

1. The subject zoning amendment complies with the Growth Management Act.
2. The subject zoning amendment is consistent and implements the Whatcom County Comprehensive Plan.

V. RECOMMENDATION

Based upon the above findings and conclusions, staff recommends approval of the proposed amendments as shown on Exhibit 1.

PROPOSED BY: _____
SPONSORED BY: BY: _____
INTRODUCTION DATE: _____

ORDINANCE NO. _____

**CODE AMENDMENTS TO ALLOW AGRICULTURAL PARCEL
RECONFIGURATION AND RELATED CHANGES AFFECTING THE
AGRICULTURE ZONE**

WHEREAS, the Whatcom County Agricultural Advisory Committee developed an Agricultural Strategic Plan adopted by County Council Resolution 2011-023; and

WHEREAS, the Agricultural Strategic Plan includes the recommendation to develop a Parcel Reconfiguration tool in the Agricultural areas, which has now been developed; and

WHEREAS, the proposed code amendments have been reviewed under the State Environmental Policy Act (SEPA); and

WHEREAS, In accordance with RCW 36.70A.106 Whatcom County Planning and Development Services notified the Department of Commerce of the proposed code amendments; and

WHEREAS, notices of the Whatcom County Planning Commission hearings on the proposed amendments were published in the Bellingham Herald; and

WHEREAS, the Whatcom County Planning Commission held two public hearings on the proposed amendments and considered all testimony; and

WHEREAS, the Whatcom County Planning Commission held five work sessions on the proposed amendments; and

WHEREAS, the Whatcom County Planning Commission forwarded its findings and reasons for action to the County Council; and

WHEREAS, the Whatcom County Council has reviewed the Planning Commission recommendation; and

WHEREAS, the Whatcom County Council hereby adopts the following findings of fact and conclusions:

FINDINGS

1. The Whatcom County Agricultural Strategic Plan was developed by the county's Agricultural Advisory Committee made up of farmers and farming industry representatives appointed by the Whatcom County Executive and affirmed by the County Council.
2. The Agricultural Strategic Plan was supported by the County Executive and endorsed by the County Council on July 26, 2011 through Resolution 2011-023.
3. The Agricultural Strategic Plan built upon previous work within the agricultural community including the Rural Land Study (2007; endorsed through Council Resolution 2009-040), and an examination of the existing potential residential development within the agricultural areas of the county as described in four White Papers delivered to the WA State Office of Farmland Preservation in January 2009 and posted on the county's [Agricultural website](#) since that time.
4. The examination of existing development potential was initiated in 2008 through a stakeholder and public process conducted by Whatcom Farm Friends (county contract number 200711051), wherein tools were identified with the goals of both retiring and accommodating existing development potential in ways that benefit agriculture. Tools that retire existing development potential were identified as options to reduce the overall development potential within the agricultural areas, assisting the farming industry by reducing the potential for uses that may conflict with agricultural activities. Accommodation tools were identified as potential options that assist the farming industry through various incentives that neither reduce nor add density to the agricultural areas.
5. The Agricultural Strategic Plan contains a number of priority tasks, one of which is "Parcel Reconfiguration tool development" which was intended to allow the reconfiguration of parcels within and across ownership, to place the existing development potential in areas that are the least valuable as farm land; accommodating existing development potential in a manner that better fits with the farming operation.
6. A Project Review Team consisting of County staff, Agricultural Advisory Committee (AAC) representatives, and a Whatcom Farm Friends representative met throughout the process with assistance from BERK Consulting to review objectives and draft documents. Meeting dates were: February 15, April 12, May 10, and July 26, 2012. This team continued to meet without the assistance from BERK Consulting as a subcommittee of the AAC.

- 1
2 7. A Determination of Nonsignificance (DNS) was issued under the State
3 Environmental Policy Act (SEPA) on August 23, 2012.
4
- 5 8. The preliminary project plan was posted on the county website on March 6,
6 2012, updated periodically, with draft alternative code amendments added
7 on March 27, 2012 and subsequently updated.
8
- 9 9. A Focus Group meeting conducted by BERK Consulting was held on March 5,
10 2012 with nine experts in Whatcom County agricultural land use,
11 development, and financing to brainstorm how parcel reconfiguration could
12 work to allow rearrangements of parcels (within and across ownership) to
13 place the existing development potential in areas that are the least valuable
14 as farmland, in a manner that benefits the County and the landowner and is
15 consistent with other state and local priorities.
16
- 17 10. A Public Open House concerning the project and draft alternatives was held
18 at Cornwall Church on May 3 at 6:30 PM, with notice posted on the County
19 website and sent to citizen, media and other groups on the County's e-mail
20 list on April 19, 2012.
21
- 22 11. A document entitled "Situation Assessment: Incentives for Commercial
23 Agriculture: Parcel Reconfiguration" (Situation Assessment) identifying the
24 current conditions, parcel reconfiguration objectives, key issues,
25 recommendations, public process, draft code amendments, and analyzing
26 Growth Management Act and Hearings Board cases and other jurisdictional
27 examples was published on May 31, 2012 by BERK Consulting and posted on
28 the County website on June 8, 2012.
29
- 30 12. The Situation Assessment contains a list of principles used to help guide the
31 parcel reconfiguration work program:
 - 32 • Increase the long-term viability of agriculture while recognizing underlying
33 economic realities.
 - 34 • Provide more flexibility/incentives for homes, placed with the least impact
35 to agricultural operations.
 - 36 • Reduce potential conflicts with neighbors.
 - 37 • Ensure parcel reconfiguration tools are "density neutral."
 - 38 • Overarching principles should drive the regulations (e.g. equal to or better
39 than...).
 - 40 • Honor and protect property rights and values to help farmers stay in
41 business.
42
- 43 13. Notice of the subject amendment was submitted to the Washington State
44 Department of Commerce on June 7, 2012.
45

- 1 14. The Planning Commission held a work session on July 12, 2012 to discuss the
2 Agricultural Strategic Plan, including background information and all priority
3 tasks. Notice was posted on the County website, and was sent to citizen,
4 media and other groups on the County's e-mail list on June 27 and on July 5,
5 2012.
6
- 7 15. A Code Development Technical Workshop open to the public was held on July
8 16, 2012 to further discuss proposed code amendments, with notice posted
9 on the County website and sent to citizen, media and other groups on the
10 County's e-mail list on June 27 and on July 10, 2012.
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- 12 16. The Planning Commission held work sessions on August 9, 2012, November
13 15, 2012, January 24, 2013, and February 14, 2013, to discuss the Parcel
14 Reconfiguration tool and draft code amendments. Notice of these meetings
15 was posted on the County website, and was sent to citizen, media and other
16 groups on the County's e-mail list prior to the meetings in accordance with
17 general practices.
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- 19 17. A Supplemental Analysis and Recommendations document was published on
20 August 31, 2012 to provide updated information following the publication of
21 the "Situation Assessment: Incentives for Commercial Agriculture: Parcel
22 Reconfiguration" prepared by BERK Consulting. The Supplemental Analysis
23 was posted on the County website on September 20, 2012.
24
- 25 18. The Planning Commission held a public hearing on the subject amendment
26 on October 25, 2012. Notice of the Planning Commission hearing was sent to
27 the county email list which includes City representatives from Lynden,
28 Ferndale, Everson, Nooksack and Sumas; citizens; media; and other group
29 representatives on October 4, 2012. Notice of the Planning Commission
30 hearing for the subject amendment was posted on the County website on
31 October 17, 2012. Notice of the Planning Commission hearing for the subject
32 amendment was published in the Bellingham Herald on October 12, 2012.
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- 34 19. The Planning Commission held a second public hearing on the subject
35 amendment on February 28, 2013. Notice of the Planning Commission
36 hearing was sent to the county email list which includes City representatives
37 from Lynden, Ferndale, Everson, Nooksack and Sumas; citizens; media; and
38 other group representatives on February 20, 2013. Notice of the Planning
39 Commission hearing for the subject amendment was posted on the County
40 website on February 19, 2013. Notice of the Planning Commission hearing for
41 the subject amendment was published in the Bellingham Herald on February
42 17, 2013.
43
- 44 20. [County Council work sessions and public hearing(s) to be listed here, with
45 related information].

- 1
2 21. In order to approve the zoning amendment, the County must find that it is
3 consistent with the Growth Management Act (GMA). Additionally, the County
4 must find that the zoning amendment is consistent with and implements the
5 Whatcom County Comprehensive Plan.
6
- 7 22. The GMA (RCW 36.70A.020) lists thirteen planning goals to guide the
8 development and adoption of comprehensive plans and development
9 regulations. The proposed amendments reflect a balance of these planning
10 goals; primarily: (2) Reduce sprawl, (6) Property rights, (7) Permits, (8)
11 Natural resource industries, (10) Environment, and (11) Citizen participation
12 and coordination.
13
- 14 23. The GMA (RCW 36.70A.030) contains a definition for "agricultural land"
15 meaning "land primarily devoted to the commercial production of
16 horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal
17 products or of berries, grain, hay, straw, turf, seed, Christmas trees not
18 subject to the excise tax imposed by RCW [84.33.100](#) through [84.33.140](#),
19 finfish in upland hatcheries, or livestock, and that has long-term commercial
20 significance for agricultural production."
21
- 22 24. The GMA guides the adoption of development regulations to assure the
23 conservation of designated agricultural, forest, and mineral lands of long-
24 term commercial significance. Both the GMA and Washington Administrative
25 Code (WAC) offer specific guidance:
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- 27 • Development regulations must assure the conservation of agricultural
28 lands (RCW 36.70A.060).
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 - 30 • Natural resource uses have preferred and primary status in designated
31 natural resource lands. Counties and cities must determine if and to what
32 extent other uses will be allowed. If other uses are allowed, counties and
33 cities should consider using innovative land management techniques that
34 minimize land use incompatibilities and most effectively maintain current
35 and future natural resource lands (WAC 365-190-040).
36
 - 37 • Regulations for the conservation of natural resource lands may not
38 prohibit uses legally existing on any parcel prior to their adoption (RCW
39 36.70A.060).
40
 - 41 • Development regulations must assure that the planned use of lands
42 adjacent to natural resource lands will not interfere with the continued
43 use, in the accustomed manner and in accordance with best management
44 practices, of these designated lands (RCW 36.70A.060).
45

- Counties and cities are encouraged to use a coordinated program that includes non-regulatory programs and incentives to supplement development regulations to conserve natural resource lands (WAC 365-196-480).

25. The GMA (RCW 36.70A.177) encourages counties to consider use of innovative zoning techniques designed to conserve agricultural lands and encourage the agricultural economy, and requires accessory uses to be limited according to the section.

26. Consultant attorney review concluded that the GMA provides some flexibility for the County to allow landowners to vary from minimum lot sizes in individual cases, as long as:

- The County provides appropriate standards with reasonable limits that protect rural character (such as siting criteria that are consistent with the County's definition for "rural character") and that conserve agricultural lands;
- The County does not allow the overall pattern of lot sizes and densities to be materially changed, to the detriment of rural character or agricultural conservation; and
- Where appropriate, the County requires compensating areas to be set aside and permanently dedicated to agricultural or open space uses.

27. Whatcom County Comprehensive Plan Goal 8A is to: **Conserve and enhance Whatcom County's agricultural land base for the continued production of food and fiber.** Additionally, the following policies are relevant to the proposed amendments:

Policy 8A-4: Discourage conversion of productive agricultural land to incompatible nonagricultural uses.

Policy 8A-6: Prioritize agricultural activity in land use decisions when land is composed of prime and/or productive agricultural soils and agriculture is the highest value resource use.

Policy 8A-7: Establish flexibility in land use plans and regulations to encourage maintenance of the productive agricultural land base.

Policy 8A-12: The Agricultural Advisory Committee shall advise the Whatcom County Executive and Council on agricultural issues and agricultural land use. Whatcom County shall support the Agricultural Advisory Committee with staff and other resources.

1
2 The proposed amendment developed through the recommendations of the
3 County Agricultural Advisory Committee prioritizes agricultural activities while
4 providing land owner flexibility and recognizing existing legal lots.
5

6 **28. Whatcom County Comprehensive Plan GOAL 8C is to: **Preserve and****
7 **enhance the cultural heritage that is related to agriculture.**

8 Additionally, the following policies are relevant to the proposed amendments:
9

10 Policy 8C-1: Find ways for retiring farmers to pass their farms on to their
11 children and for young farmers to be able to afford to buy productive
12 farmland.
13

14 Policy 8C-2: Identify, preserve, and enhance community character,
15 landscape, and buildings associated with agricultural activity.
16

17 Policy 8C-3: Involve those who actually are engaged in agricultural
18 activities in the planning process. Utilize groups working effectively with
19 the agricultural community to help preserve and/or create a sustainable
20 economic agricultural base.
21

22 Policy 8C-4: Support the continuation of owner occupied/family owned
23 farms.
24

25 The proposed amendment responds to public input from farmers, agricultural
26 land owners, and the public by providing opportunities for smaller lot sizes
27 that may be easier to finance for farming purposes while allowing existing
28 residential development potential in a way that is minimally disruptive to the
29 agricultural activities.
30

31 **29. Whatcom County Comprehensive Plan GOAL 8D is to: **Reduce land use****
32 **conflicts between Whatcom County's agriculture and non-agricultural**
33 **landowners.** Additionally, the following policies are relevant to the proposed
34 amendments:
35

36 Policy 8D-1: Work to reduce conflicts between incompatible agricultural
37 activities by establishing zoning regulations which protect productive
38 agricultural lands of long-term commercial significance from conversion to
39 non-compatible uses. This zoning should recognize the diversity of
40 agricultural landowners and agricultural land uses. This zoning should
41 provide flexible regulations, which encourage all agricultural landowners
42 to maintain the productive agricultural land base while protecting them
43 from conflicting uses.
44

1 Policy 8D-6: Support agricultural activity in mixed farm/rural residential
2 areas, with the understanding that certain farm practices may conflict
3 with other neighboring rural land uses.
4

5 The proposed amendment provides a flexible alternative to larger-lot
6 residential development in a manner that encourages the conservation of the
7 productive agricultural lands.
8
9

10 **CONCLUSIONS**

- 11 1. The subject zoning amendment complies with the Growth Management Act.
- 12 2. The subject zoning amendment is consistent and implements the Whatcom
13 County Comprehensive Plan.
14
15
16
17

18 **NOW, THEREFORE, BE IT ORDAINED** by the Whatcom County Council that the
19 Whatcom County Code is hereby amended as shown in Exhibit 1.
20

1
2 **BE IT FURTHER ORDAINED** that if any section, subsection, sentence, clause or
3 phrase of this ordinance is for any reason held to be invalid or unconstitutional;
4 such decision shall not affect the validity of the remaining portions of this
5 ordinance. The Council hereby declares that it would have passed this code and
6 each section, subsection, sentence, clause or phrase thereof, irrespective of the fact
7 that any one or more sections, subsections, sentences, clauses or phrases has been
8 declared invalid or unconstitutional, then the original ordinance or ordinances shall
9 be in full force and effect.

10
11 **ADOPTED** this ____ day of _____, 20____.

12
13
14 ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

15
16
17 _____
Dana Brown-Davis, Clerk of the Council

Kathy Kershner, Council Chair

18
19
20
21 APPROVED AS TO FORM:

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

22
23
24
25 _____
Civil Deputy Prosecutor

Jack Louws, County Executive

26
27 () Approved () Denied

28
29 Date Signed: _____
30
31

EXHIBIT 1

PROPOSED CODE AMENDMENTS: PARCEL RECONFIGURATION

February 28, 2013

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Chapter 20.40 AGRICULTURE (AG) DISTRICT

Sections:

- [20.40.010](#) Purpose.
- [20.40.050](#) Permitted uses.
- [20.40.100](#) Accessory uses.
- [20.40.130](#) Administrative approval uses.
- [20.40.150](#) Conditional uses.
- [20.40.200](#) Prohibited uses.
- [20.40.250](#) ~~Division or modification of parcels~~
- [20.40.350](#) Building setbacks.
- [20.40.450](#) Lot coverage.
- [20.40.650](#) ~~New or modified parcel siting~~ criteria.
- [20.40.651](#) Landscaping.
- [20.40.652](#) Drainage.
- [20.40.662](#) Use of natural resources.

20.40.010 Purpose.

The primary purposes of this district are to implement the agricultural designation of the Comprehensive Plan, established pursuant to RCW [36.70A.170](#), preserve, enhance and support the production of food and fiber in Whatcom County, to maintain a sufficiently large agricultural land base to ensure a viable agriculture industry and to maintain the economic feasibility of supporting services. Whatcom County supports agricultural activities as the highest priority use in the Agriculture District, with all other uses being subordinate to agricultural activities. Whatcom County seeks to minimize conflict with surrounding zoning districts, in conjunction with Chapter [14.02](#) WCC, Right to Farm. In order to limit the further fragmentation of the commercial agricultural land base, the Agriculture District includes smaller areas of land with poorer quality soils or nonagricultural uses, which do not meet the definition of agriculture lands of long-term commercial significance.

A secondary purpose of this district is to serve as a holding district when located within the urban growth area Comprehensive Plan designation to allow agricultural uses in the near term while protecting the area from suburban sprawl and preserving the potential for future urban development consistent with the protection of the resource land. (Ord. 2009-071 § 2 (Exh. B), 2009; Ord. 2005-079 § 1, 2005; Ord. 2001-020 § 1 (Exh. 1 § 1), 2001).

....

20.40.250 ~~Division or Modification of Parcels.~~

It is the intent of this section to allow divisions which benefit the long-term viability of agriculture. This section describes the requirements for division or modification of parcels within the agricultural district that

Deleted: Minimum lot size and land subdivision.

Deleted: Development

Comment [slk11]: Moved to .251

Comment [slk12]: Moved from .251

Deleted: Minimum lot size

Deleted: and land subdivision.

Comment [slk13]: Moved to .252

Moved down [1]: The minimum lot size in the Agriculture District is 40 acres, except as provided for in WCC [20.40.251](#) and [20.40.252](#).

Deleted: The minimum length to width ration is five to one.

Moved down [2]: The terms "length" and "width" refer to the average length and average width of the parcel.¶

Deleted: (1)

Deleted: (2) All divisions of land in the Agriculture District shall proceed in accordance with the local and state subdivision laws.¶
(3) Boundary line adjustments shall not make a lot substandard or further substandard, except as provided for in WCC [20.40.251](#) and [20.40.252](#).¶
.251

either are consistent with the minimum lot size, or would result in substandard parcels or make existing substandard parcels further substandard.

Requests for land division, boundary line adjustment, or agricultural parcel reconfiguration in the Agriculture District shall be made on forms provided by the department and will be reviewed administratively. All divisions must comply with the following provisions:

(1) **Agricultural Divisions.** All divisions of land in the Agriculture District shall proceed in accordance with the local and state subdivision laws.

(2) **Allowable Density.** No division, boundary line adjustment, nor agricultural parcel reconfiguration shall result in an increase in allowable density.

(3) **Additional Acreage.** Additional acreage gained through a boundary line adjustment or agricultural parcel reconfiguration shall not be considered in the total acreage calculations for determining density.

(4) **Plat Restrictions.** The following plat restriction is required, prior to recording, on the nonresidential lot of all divisions of land provided for in WCC 20.40.254(2):

No further division or residential structure shall be allowed on this parcel unless and until changes in the zoning of this property occur consistent with State and local laws which would result in additional development density, in which case this restriction shall be null and void, and density and uses of the new zone shall apply to the property upon review by the Whatcom County zoning administrator.

(5) **Deed Restrictions.** Deed restrictions are required for all boundary line adjustments or agricultural parcel reconfigurations allowed under WCC 20.40.254(3) and (4).

(a) The following language must be recorded separately and placed by reference of auditors file number on the deed, and placed on the tract map of the nonresidential portion of the adjusted parent parcels prior to recording:

The development density of the original parcel (parent parcel) remains with legal description _____. The _____ (# of acres) appended through boundary line adjustment [or agricultural parcel reconfiguration] to legal description _____ (receiving parcel) shall not be included in calculations to determine total development density for the receiving parcel.

(b) The following deed restriction language must be recorded separately and placed by reference of auditors file number on the deed, and is required when there is no additional means to further subdivide the property due to the parcel sizes and density standards of this zone:

No further division or residential structure shall be allowed on this parcel unless and until changes in the zoning of this property occur consistent with State and local laws which would result in additional development density, in which case this restriction shall be null and void, and density and uses of the new zone shall apply to the property upon review by the Whatcom County zoning administrator.

20.40.251 Minimum Lot Size.

The minimum lot size in the Agriculture District is 40 acres, except as provided for in WCC 20.40.253 and 20.40.254. The creation of a lot less than the minimum size is permitted only when the subject application meets the standards contained in WCC.20.40.253, .254, and .650, as applicable.

Deleted: or

Deleted: An additional application, deemed sufficient to initiate subdivision or boundary line adjustment review by planning and development services, must be submitted within 24 months of the administrative approval granted pursuant to this section.

Comment [slk14]: Moved from above - old 20.40.250(2).

Deleted: s or

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Deleted: 2

Deleted: ; and

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Deleted: 252

Deleted: until and

Deleted: 4

Deleted: 20.40.252

Deleted: .252 Maximum Lot Size Exceptions. The inclusion of existing agricultural structure(s) within the farmstead home site parcel shall be allowed if the farmstead home site parcel does not exceed three acres, and if any of the following criteria are met:

Deleted: (a)

Moved (insertion) [1]

Deleted: 1

Deleted: 2

Comment [slk15]: Moved from .252(1)

<u>Parcel</u>	<u>Minimum Lot Size</u>	<u>Minimum Lot Size Exceptions</u>
<u>Conventional Parcel</u>	<u>40 acres</u>	<u>Reconfiguring existing nonconforming parcels</u>
<u>Farmstead Parcels Created through Agricultural Short Subdivision or Agricultural Boundary Line Adjustment</u>		
<u>Farmstead Parcel – Parent Parcel with Existing Farmstead with public water</u>	<u>1 acre</u>	<u>Up to 3 acres pursuant to WCC 20.40.253 (1),(2) & (4)</u>
<u>Farmstead Parcel – Parcel with Existing Farmstead without public water</u>	<u>2 acres</u>	<u>Up to 3 acres pursuant to WCC 20.40.253 (1)-(4)</u>
<u>Farmstead Parcel – Parent Parcel without Existing Farmstead with public water</u>	<u>1 acre</u>	<u>Up to 2 acres pursuant to WCC 20.40.253 (1) & (2)</u>
<u>Farmstead Parcel – Parcel without Existing Farmstead without public water</u>	<u>2 acres</u>	<u>Up to 3 acres pursuant to WCC 20.40.253 (1),(2) & (3)</u>
<u>Parcels Created Through Agricultural Parcel Reconfiguration</u>		
<u>Reconfigured Parcel - reconfiguration with public water</u>	<u>1 acre</u>	<u>N/A</u>
<u>Reconfigured Parcel - reconfiguration without public water</u>	<u>1 acre</u>	<u>Up to 2 acres pursuant to WCC 20.40.253 (1),(2) & (3)</u>
<u>Parcels Created for Agricultural Purposes Only</u>		
<u>Created Parcel with deed restriction for no residential buildings</u>	<u>10 acres</u>	<u>N/A</u>

20.40.252 Minimum lot width and depth.

(1) For parcels created consistent with the minimum lot size: The minimum length to width ratio is 1/5. The terms “length” and “width” refer to the average length and average width of the parcel.

(2) For lots created or rearranged pursuant to WCC 20.40.254, the following lot width and depth shall apply:

Comment [slk16]: Moved from .250(1)(a)

Deleted: five to one

Moved (insertion) [2]

<u>Minimum Width at Street Line</u>	<u>Minimum Width at Bldg. Line</u>	<u>Minimum Mean Depth</u>
<u>70' [A]</u>	<u>80'</u>	<u>100'</u>

[A] Applies only to land divisions or parcel reconfigurations where the parcel(s) does not contain a farmstead homesite at the time of the application.

20.40.253 Farmstead or Reconfigured Parcel Minimum Lot Size Exceptions

The base maximum for the farmstead parcel shall be consistent with the minimum lots size in 20.40.251, except as follows:

- (1) A greater area is determined necessary by the health officer pursuant to Chapter 24.05 On-Site Sewage System Regulations;
- (2) A greater area is determined necessary by the responsible official to accommodate a driveway or other access necessary for the farmstead parcel;
- (3) For farmstead parcels without public water: Unless substantial evidence is provided by the responsible official indicating the location is not feasible, wells and wellhead protection zones shall also be located within the farmstead parcel. Wells located outside of the farmstead parcel area shall be sited to minimize potential impacts on agricultural activities.
- (4) For farmstead parcels with existing farmstead homesites: **There is an existing agricultural structure(s) within the farmstead parcel and any of the following criteria are met:**

- (a) The separation between the agricultural structure(s) and the primary residential structure is less than 150 feet; or
- (b) Current use of the agricultural structure(s) is not related to an agricultural activity; or
- (c) There is a low potential for future use of the agricultural structure(s) to be associated with an agricultural activity due to physical condition or compatibility with agricultural practices; or
- (d) Water is not available for use at the agricultural structure(s).

20.40.254 Separation of the Farmstead Parcel Criteria:

(1) The **criteria for approval** for the **farmstead** parcel **and remainder parcel created through Agricultural Boundary Line Adjustment, Agricultural Short Subdivision and Agricultural Parcel Reconfiguration** shall be the following:

- (a) The **area of the parcel containing the** farmstead home site, **whether the home exists or is to be added, is limited to the minimum amount required to encapsulate structures, parking areas, driveways, septic systems, wells, and landscaping required setbacks; and**
- (b) The **farmstead** parcel **size** shall be **as stated in WCC 20.40.251**, unless the existing residential structure(s) and/or well and septic constraints require a larger parcel, but shall not exceed **the maximum lot size consistent with the exceptions in WCC 20.40.253**; and
- (c) The **farmstead parcel and farmstead home site meet the siting criteria contained in WCC 20.40.650**; and
- (d) A remainder parcel shall be **created** equal to or greater than 10 nominal acres; and

Comment [slik17]: Moved from .252

Comment [slik18]: Moved from .252 (was (2)(b)(iv) in last draft)

Deleted: (1)

Deleted: Home Site

Deleted: .

Deleted: maximum lot size

Deleted: home site

Deleted: determined by

Deleted: criteria for approval

Deleted:

Deleted: less than one acre

Deleted: three acres;

Deleted: b)

(e) The remainder parcel shall have no existing residential development and no development rights, and a condition containing the language as provided in WCC 20.40.250(4) or (5) shall be included on the short plat, boundary line adjustment, or agricultural parcel reconfiguration for the remainder parcel prior to final approval; and

Deleted: c

Deleted: 1

Deleted: (3)

(f) The applicant and his or her heirs provide right of first purchase for a period of not less than 60 days through deed restriction to the original purchaser and subsequent purchasers of the remainder parcel for purchase of the farmstead parcel before they are offered on the open market; and

Deleted: d

Deleted: home site

(g) A right to farm disclosure statement as provided for in WCC 14.02.040(B) will be signed by the farmstead parcel owner and subsequent purchasers of the farmstead parcel, and recorded as per WCC 14.02.040(A)(1) and 14.02.050; and

Deleted: e

Deleted: home site

Deleted: home site

(h) All land division shall comply with the appropriate map and recording provisions of WCC Title 21; and

Deleted: f

(i) The overall submittal shall comply with WCC 20.40.250 et seq.

Deleted: g

(2) Agricultural Short Subdivisions. Agricultural Short subdivisions for the purpose of reducing the acreage below the minimum lot size as provided by WCC 20.40.251 for a farmstead homesite shall comply with the following provisions:

Deleted: (2)

(a) The minimum parcel size is the area necessary to accommodate a house site which meets the applicable dimensional requirements of all applicable code and provides a remainder (appended) parcel equal to or greater than 10 nominal acres; and

Comment [slk19]: Repeated from existing code .252(2)(a)

(b) The short subdivision application shall meet the size and performance standards of WCC 20.40.650.

(3) Boundary Line Adjustments. Boundary line adjustments for the purpose of reducing the acreage below the minimum lot size as provided by WCC 20.40.251 of an existing or proposed farmstead parcel if such boundary line adjustment complies with the following provisions:

Deleted: g

Deleted: (3)

Deleted: home site

(a) Boundary line adjustments shall not make a lot substandard or further substandard, except as provided for in WCC 20.40.251.

Comment [slk10]: Moved from old 20.40.250(3).

(b) The minimum parcel size is the area necessary to accommodate a house site which meets the applicable dimensional requirements of all applicable codes and provides a remainder (appended) parcel equal to or greater than 10 nominal acres; and

Deleted: and 20.40.252

(c) The farmstead parcel and boundary line adjustment application shall meet the size and performance standards of WCC 20.40.250 and 251, and the siting criteria of WCC 20.40.650.

Deleted: b

Deleted: home site

(4) Agricultural Parcel Reconfiguration: Parcels are reconfigured and finalized according to the agricultural parcel reconfiguration process established in Chapter 21.03, Exempt Land Divisions, Boundary Line Adjustments, and Agricultural Parcel Reconfigurations, and when meeting the following performance standards:

(a) Existing parcels to be reconfigured are:

Deleted: less

(i) Smaller than the minimum lot size established for new lots in the Agriculture district. Parcels which meet the minimum lot size may be adjusted as a part of this process, provided the reconfiguration meets the provisions of (4)(b) below;

Deleted: one acre, unless the site, existing structure and/or well and septic constraints require a larger parcel, but shall not exceed three acres; and

(ii) Determined to be legally created and buildable pursuant to WCC Title 21.01.180.

(b) Proposed parcel(s) results in the following:

(i) No additional parcels; and

(ii) A remainder parcel shall be created equal to or greater than 10 nominal acres; and

(iii) The siting criteria of WCC 20.40.650 are met and development standards of WCC 20.40.252 et seq. are met; and

(iv) The reconfiguration shall result in achieving four (4) or more of the identified agricultural-related purposes as follows:

(A) Expand the amount of commercially viable resource land under contiguous single ownership; and/or

(B) Protect and buffer designated resource lands; and/or

(C) Reduce impervious surfaces, such as by reducing the amount of road and utility construction required to serve reconfigured lots, or by reducing the amount of impervious area for nonagricultural uses that could otherwise occur without parcel reconfiguration; and/or

(D) Reduce the total number of lots of record through voluntary consolidation; and/or

(E) Produce a farm management plan approved through the Whatcom Conservation District or WA Department of Agriculture that demonstrates increased viability of the agricultural operation through the agricultural parcel reconfiguration; and/or

(F) Enable improved floodplain management in cooperation with Whatcom County Public Works; and

(viii) Reconfigured lots shall not be further adjusted by boundary line adjustment without approval under this section.

(c) The responsible official may impose conditions, consistent with Whatcom County Code, on the agricultural parcel reconfiguration to further the purposes of this section.

(d) Parcel reconfigurations will be tracked by County Planning and Development Services so the procedure can be adaptively managed by review of all projects passed per this code in year 2017.

(5) Public Facility. The division is for the purpose of public facilities for health and safety use or expansion of such uses; provided, that:

(a) The division or boundary line adjustment will not adversely affect the surrounding agricultural activities; and

(b) The applicant has demonstrated to the administrator's satisfaction that the siting of the proposed use cannot be located in an adjacent zoning district or alternative site, if the area is intensively farmed.

(6) Division or Boundary Line Adjustment for Agricultural Purposes Only. Lots smaller than the minimum lot size of WCC 20.40.251 may be created through land division or re-arranged through a boundary line adjustment provided the following:

(a) The parent parcel does not contain an existing residence, or said existing residence will remain on a parcel larger than 40 acres in size; and

Deleted: (c) The appended parcel shall have no development rights and a condition containing the language as provided in WCC [20.40.251\(4\)](#) shall be included on the deed for the appended parcel prior to final approval; and¶
(d) The applicant and his or her heirs provide right of first purchase for a period of not less than 60 days through deed restriction to the original purchaser and subsequent purchasers of the remainder parcel for purchase of the farmstead home site parcel before they are offered on the open market; and¶
(e) A right to farm disclosure statement as provided for in WCC [14.02.040\(B\)](#) will be signed by the farmstead home site owner and subsequent purchasers of the farmstead home site parcel, and recorded as per WCC [14.02.040\(A\)\(1\)](#) and [14.02.050](#); and¶
(f) All land division shall comply with the appropriate map and recording provisions of WCC Title [21](#); and¶
(g) The overall submittal shall comply with WCC [20.40.250](#) et seq.¶
(3) The division is to allow for the realization of a security interest entered into for the purpose of financing a new house; provided, that the divided parcel shall not be sold separately from the farm except in the event of foreclosure or forfeiture, pursuant to the criteria of subsection (1) of this section.¶
(4)

Deleted: pursuant to WCC [20.40.251](#)

Deleted: .253

- (b) The parcel created is greater than 10 acres or is appended to another parcel; and
- (c) There is a properly executed deed restriction which runs with the land on lots which have been created through the division or modified by the boundary line adjustment, except those lots at or over 40 acres in size that maintain an associated development density. Such deed restriction shall be substantially similar to that listed under 20.40.250(5), approved by the zoning administrator and recorded with the County Auditor specifying:
- (i) All land divided or parcels adjusted are to be used exclusively for agricultural or flood management purposes and specifically not for a dwelling(s), and
- (ii) All land divided or parcels adjusted shall have no residential density, and
- (iii) For land divisions, the acreage of the newly created parcels shall not be included in calculations to determine total development density in the future, and
- (iv) For boundary line adjustments, the acreage of the newly created parcel and appended portion shall not be included in calculations to determine total development density in the future.

20.40.255 Consolidation of Adjacent Tracts.

Consolidation of adjacent tracts in the same ownership shall be required in accordance with 20.83.070 in approval of any subdivision, short subdivision, agricultural parcel reconfiguration, or boundary line adjustment in the Agricultural District. The County may waive the permit fee for a boundary line adjustment or agricultural parcel reconfiguration where adjacent lots of record are not in the same ownership and are consolidated voluntarily for purposes of the agricultural parcel reconfiguration, or boundary line adjustment.

20.40.256 Establishing Intent.

The burden of establishing intent in and legal proceeding relating to a transaction accomplished or proposed under the authority of this section shall be upon the land owner or purchaser.

20.40.350 Building setbacks.

Building setbacks shall be administered pursuant to WCC 20.80.200 (Setback Requirements). Building setbacks for parcels of less than five nominal acres shall be administered pursuant to WCC 20.80.250.

20.40.450 Lot coverage.

No structure or combination of structures, including accessory buildings, shall occupy or cover more than 25 percent of the total area of the subject parcel. Exceptions to the maximum lot coverage may be allowed when any of the following can be demonstrated:

- (1) Proposed structures, in excess of the allowed maximum lot coverage, are located on lesser quality soils.
- (2) Proposed structures in excess of the allowed maximum lot coverage support additional agricultural production on parcels other than the subject parcel.
- (3) Expansion of facilities that were in operation prior to the adoption of the ordinance codified in this section if it can be demonstrated that substantial on-site investment has been made and location of additional structures off-site would cause an economic hardship to the farm operation.

Deleted: .254

Deleted: 282(3).

20.40.650 New or Modified Parcel Siting Criteria

The location of vacant farmstead parcels or parcels arranged through agricultural parcel reconfiguration (which may or may not be vacant) shall be consistent with the following siting criteria and standards:

(1) **Minimum Lot Size.** Parcels shall be consistent with WCC 20.40.251.

(2) **Parcel Design.** Parcels shall be located and arranged to provide the maximum protection of agricultural land located both on and off-site. Parcel design and development shall be as follows:

- (a) The residential parcels shall be configured so that property lines are immediately adjacent and physically contiguous to each other. A maximum of two development areas containing no more than four (4) lots may be allowed. The two development areas shall contain no more than a total of six lots, and shall be separated by a minimum of 500 feet to minimize the visibility of the future development and reinforce the purposes of the zone; provided that reductions in the separation standard by up to 10% are allowed if an applicant can demonstrate that the future development visibility from the public right of way or from neighboring properties is minimized and the purposes of the parcel reconfiguration in Section 254(4)(b)(iv) are met; and
- (b) Residential parcels shall be located as close as possible to existing public roads, or if none abut the property then to existing access roads. New road or driveway development shall be avoided to the maximum extent feasible; and
- (c) Except for parcels that recognize existing farmsteads, residential parcels shall be located to the extent feasible to maximize the remainder lot configuration and farmable area; and
- (d) Except for reconfigured parcels that recognize existing farmsteads, each reconfigured parcel shall be limited to one single family residence and residential accessory structures; and
- (e) Residential building sites shall maintain sufficient separation from on-site and off-site agricultural resources and exterior property lines. The setback, lot coverage, and height standards for reconfigured lots shall be as established in WCC 20.40.350 to 450; and
- (f) Applicants shall verify that reconfigured parcels or farmstead parcels do not prohibit access to a point of withdrawal for any irrigation water rights certificates, claims, permits, or applications on the affected parcels; and
- (g) All development shall be consistent with WCC Chapter 16.16; and
- (h) The farmstead parcel or reconfigured parcels avoid prime soils to the extent feasible. Where the site is predominantly in prime soils and such cannot be avoided, the applicant shall demonstrate that:
 - (i) the parcels are sized to be as small as feasible pursuant to WCC 20.40.251; and
 - (ii) located to maximize the agricultural use of the remainder lot; and
 - (iii) achieve the most suitable locations for parcels in terms of minimizing roads, allowing for water availability, and septic suitability.

(3) **Substitute Parcel Design Standards.** Applicants proposing a farmstead parcel or agricultural parcel reconfiguration may propose a substitute performance standard in place of a listed standard in .650 (New or Modified Parcel Siting Criteria) provided that the applicant submits a written justification demonstrating the substitute standard better or equally meets the purposes of the zone in WCC 20.40.010 and the agricultural-

Deleted: Development

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related purposes described in WCC 20.40.254(4)(b)(iv); except under no condition shall more than the maximum of six (6) residential parcels with no more than four (4) lots in one development area be allowed. Such substitution shall be considered at the Administrator's discretion.

CHAPTER 20.80 SUPPLEMENTARY REQUIREMENTS

Sections:

- [20.80.210](#) Minimum setbacks.
- [20.80.230](#) Measurement of setbacks.
- [20.80.250](#) Special setbacks provisions by district.
- [20.80.252](#) Rural District.
- [20.80.255](#) Agriculture District.
- [20.80.258](#) All districts.

....

20.80.210 Minimum setbacks.

(5) Setbacks. For the purposes of this chapter, the road classification used to determine setback requirements shall be as set forth in this section. In the event a particular road is not listed in this section, the department of public works shall determine the classification, which classification shall be based on the Whatcom County Development Standards or such other local, state or federal roadway standards as the department of public works deems appropriate.

(a) Setback Requirements of All Districts.

- (i) No manure lagoon or other open pit storage shall be located closer than 150 feet from any property line, or in a manner which creates any likelihood of ground water pollution or other health hazard.
- (ii) All manure storage shall be protected from a 25-year flood and shall be located 50 feet from irrigation ditches and waterways, 50 feet from the ordinary high water line of any lake or waterway; provided, that best management practices as determined by the Whatcom County Conservation District are in place. If the best management practices are not in place, 300 feet shall be substituted for 50 feet.
- (iii) In all districts where a single-family residence is a primary permitted use, a building permit may be issued for the construction of a replacement dwelling on the same lot; provided, that the owner agrees by filing a statement with the building official that the old dwelling will be demolished, removed or converted to another permitted use upon completion of the new dwelling.
- (iv) 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.

(b) Setbacks Table.

Resource Lands Setbacks							
Agricultural (AG)							
Road Type						Other	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
50'	50'	50'	50'	50'	50'	20'	20'
<p>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.</p> <p>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.</p> <p>3. Parcels of less than five nominal acres shall have the following minimum setbacks:</p> <p>Front yards:</p> <ul style="list-style-type: none"> – Primary arterials and secondary arterials: 45 feet. – Collector arterials: 35 feet. – Neighborhood collectors, local access streets: 25 feet. – Minor access streets: 20 feet. <p><u>Minimum front yard requirements can be reduced by the zoning administrator for agricultural parcel reconfigurations, boundary line adjustments, or farmstead parcels established through WCC 20.40.253 - .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 WCC 21.03. In no case shall front yard depth be less than 20 feet.</u></p> <p>Side yards: minimum side yard setbacks shall be five feet. <u>For agricultural parcel reconfigurations, boundary line</u></p>							

adjustments, or farmstead parcels established through WCC 20.40.253 - .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 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.

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, 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 agricultural parcel reconfigurations, boundary line adjustments, or farmstead parcels established through WCC 20.40.253 - .254 if the applicant demonstrates better placement of the structures in relation to critical areas or prime soils and goes through the approval process in WCC 21.03, but in no case shall be less than 20 feet.

Side Yards: Minimum side yard setbacks shall be five feet. For agricultural parcel reconfigurations, boundary line adjustments, or farmstead parcels established through WCC 20.40.253 - .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. (Ord. 2001-020 § 1 (Exh. 1 § 2), 2001; Ord. 99-080, 1999).

....

CHAPTER 20.83
NONCONFORMING USES AND PARCELS

20.83.110 Reduction of area.

The administrator shall not cause or increase the nonconformity of lots that are substandard as to lot area and/or lot width requirements through boundary line adjustments; provided, however, that the administrator or hearing examiner may approve boundary line adjustments required to satisfy an unidentified or disputed property line or to identify the same in accordance with RCW [58.04.007](#). In addition, boundary line adjustments or agricultural parcel reconfigurations in the Agricultural zone in conformance with WCC ~~20.40.253-.254~~ shall be allowed. (Ord. 2009-031 § 1 (Exh. 1), 2009).

Deleted: [20.40.251](#) and [20.40.252](#)

CHAPTER 21.01 GENERAL PROVISIONS

Sections:

- [21.01.010](#) Title.
- [21.01.020](#) Purpose.
- [21.01.030](#) Authority.
- [21.01.040](#) Applicability and exemptions.
- [21.01.050](#) Interpretation, conflict and severability.
- [21.01.060](#) Enforcement and penalties.
- [21.01.070](#) Fees.
- [21.01.080](#) Administrative responsibilities.
- [21.01.090](#) Pre-application meeting.
- [21.01.100](#) Applications required.
- [21.01.105](#) Consolidated application process.
- [21.01.110](#) Complete application.
- [21.01.120](#) Time frames.
- [21.01.130](#) Underground utilities.
- [21.01.140](#) Regulatory authority for development standards.
- [21.01.150](#) *Repealed.*
- [21.01.160](#) City urban growth areas.
- [21.01.170](#) Hearing examiner consultation with technical advisory committee.

21.01.010 Title.

This title shall be known and may be cited as the Whatcom County land division regulations. (Ord. 2009-007 § 1; Ord. 2000-056 § 1).

21.01.020 Purpose.

The purpose of this title is:

- (1) To promote the public health, safety, and general welfare, and to protect the natural resources and the environment.
- (2) To provide for proper application of Chapter [58.17](#) RCW.
- (3) To facilitate efficient and cost-effective land division and to ensure orderly growth and development consistent with the Whatcom County Comprehensive Plan and the Whatcom County Code.
- (4) To establish an orderly transition from existing land uses to urban development patterns in designated urban growth areas. (Ord. 2009-007 § 1; Ord. 2000-056 § 1).

21.01.030 Authority.

This title is authorized pursuant to the authority delegated to Whatcom County under Chapter [58.17](#) RCW, Plats – Subdivisions – Dedications. (Ord. 2009-007 § 1; Ord. 2000-056 § 1).

21.01.040 Applicability and exemptions.

- (1) This title shall apply to property boundary actions as defined in this title.

(2) The subdivision and short subdivision provisions of this title shall not apply to:

....

(f) A division made for the purpose of alteration by adjusting boundary lines, between platted or unplatted lots or both, which does not create any additional lot, tract, parcel, site, or division nor create any lot, tract, parcel, site, or division which contains insufficient area and dimension to meet minimum requirements for width and area for a building site in accordance with the provisions of this title;

....

(l) Divisions of land into parcels of less than forty acres but greater than ten acres within the area zoned and designated as Agriculture in the Comprehensive Plan for Whatcom County proceeding in accordance with 20.40.254(6).

....

21.01.100 Applications required.

(1) The applicant is encouraged to seek assistance from the subdivision administrator as to which approvals are required for a particular proposal. One or more of the following applications may be required for a particular proposal:

- (a) Exempt land division;
- (b) Boundary line (lot line) adjustment or agricultural parcel reconfiguration;
- (c) Short subdivision;
- (d) Preliminary long subdivision;
- (e) Final long subdivision;
- (f) Subdivision vacations and alterations;
- (g) Preliminary binding site plan;
- (h) General binding site plan;
- (i) Specific binding site plan;
- (j) Agricultural short plat. (Ord. 2009-007 § 1; Ord. 2000-056 § 1).

CHAPTER 21.03
EXEMPT LAND DIVISIONS, ~~BOUNDARY LINE ADJUSTMENTS, AND AGRICULTURAL PARCEL~~
RECONFIGURATIONS

Deleted: AND

Sections:

- [21.03.010](#) Purpose.
- [21.03.020](#) *Repealed.*
- [21.03.030](#) Pre-approval.
- [21.03.040](#) Certificate of exemption.
- [21.03.045](#) Required disclosures.
- [21.03.050](#) Access on state highways.
- [21.03.060](#) Boundary line adjustments and Agricultural Parcel Reconfigurations.
- [21.03.070](#) Inactive applications.
- [21.03.080](#) Requirements for a fully completed exempt land division application.
- [21.03.085](#) Requirements for a fully completed boundary line adjustment application.
- [21.03.090](#) *Repealed.*

21.03.010 Purpose.

The purpose of this chapter is to establish or reference the procedure and requirements for the application, review and approval of exempt land divisions, pursuant to WCC [21.01.040](#), ~~boundary line adjustments, and~~ agricultural parcel reconfigurations. The procedure is intended to provide orderly and expeditious processing of such applications. (Ord. 2009-007 § 1; Ord. 2000-056 § 1).

Deleted: and

21.03.020 Exemptions.

Repealed by Ord. 2009-007. (Ord. 2004-031 § 1; Ord. 2003-058 Exh. A; Ord. 2003-033 Exh. A; Ord. 2001-027 § 1; Ord. 2000-056 § 1).

21.03.030 Pre-approval.

Applicants may request that their proposed exempt land division be reviewed by the subdivision administrator and pre-approved using forms supplied by the planning and development services department. (Ord. 2009-007 § 1; Ord. 2000-056 § 1).

21.03.040 Certificate of exemption.

(1) A certificate of exempt land division shall be obtained from the planning and development services department for exempt land divisions under WCC [21.01.040](#)(2)(b) and (k). A certificate of exempt land division shall consist of a suitably inscribed stamp on the instrument conveying land title and shall be certified prior to the recording of the instrument with the county auditor. County review and/or a county certificate of exemption stamp shall not be required for WCC [21.01.040](#)(2)(a) and (c) through (j).

(2) A certificate of exempt land division shall be approved, approved with conditions, or denied as follows:

- (a) Applications shall include information required by WCC [21.03.085](#).

(b) The exempt land division results in a lot(s) that qualifies as a valid land use pursuant to the Whatcom County Code, including but not limited to lot area, lot width, building setbacks, critical areas protection or shorelines protection.

(c) The exempt land division will not detrimentally affect access, access design, sight distance, grade, road geometry or other public safety and welfare concerns.

(3) An exempt land division is not considered approved until said instrument has been duly stamped as exempt and is filed for record concurrently with all applicable disclosures of WCC [21.03.045](#) within 12 months of pre-approval. Failure to record within 12 months of pre-approval means the exempt land division application is expired and must be resubmitted for review and approval. The time periods of this section do not include the time during which the exempt land division was not actually pursued due to the pendency of administrative appeals or legal actions or due to the need to obtain any other government permits and approvals for the development that authorize the development to proceed, including all reasonably related administrative or legal actions on any such permits or approvals. (Ord. 2009-007 § 1; Ord. 2004-031 § 1; Ord. 2002-017 § 1; Ord. 2000-056 § 1).

21.03.045 Required disclosures.

The following disclosures, if applicable, shall be recorded in the county auditor's office and shall be filed concurrently with all conveyances of property subject to this title:

- (1) Right to farm, right to practice forestry, or mineral resource disclosures.
- (2) Boundary discrepancies.
- (3) Protective covenants, conditions and restrictions.
- (4) Latecomers' agreements.
- (5) Significant pipeline in vicinity disclosure when the subject property is within 660 feet of a pipeline shown on Map 12, Chapter 5 of the Whatcom County Comprehensive Plan. (Ord. 2009-007 § 1; Ord. 2004-031 § 1; Ord. 2002-017 § 1).

21.03.050 Access on state highways.

For parcels that will access onto a state highway, the applicant shall provide evidence of an approved access from the State Department of Transportation prior to approval of the exempt land division. (Ord. 2009-007 § 1; Ord. 2000-056 § 1).

21.03.060 Boundary line adjustments and Agricultural Parcel Reconfigurations.

The purpose of this section is to provide procedures for the review and approval of adjustments or alterations to boundary lines of existing lots of record which does not create any additional lot, tract, parcel, site or division nor create any lot, tract, parcel, site or division which contains insufficient area and dimension to meet minimum requirements for width and area for a building site.

- (1) Procedures. Boundary line adjustments and agricultural parcel reconfigurations shall be approved, approved with conditions, or denied as follows:

(a) Applications shall include information required by WCC [21.03.085](#).

(b) Any adjustment of boundary lines must be approved by the subdivision administrator prior to the transfer of property ownership between adjacent lots.

(c) The subdivision administrator shall make a preliminary decision on boundary line [or agricultural parcel reconfiguration](#) applications within 45 days following submittal of a complete application or revision, unless the applicant consents to an extension of such time period.

(d) A title insurance certificate updated not more than 60 days prior to application, which includes all parcels within the adjustment, must be submitted to the subdivision administrator with boundary line adjustment [or agricultural parcel reconfiguration](#) applications.

(e) All persons having an ownership interest within the boundary line adjustment [or agricultural parcel reconfiguration](#) shall sign the final recording document in the presence of a notary public.

(2) Decision Criteria. In reviewing a proposed boundary line adjustment [or agricultural parcel reconfiguration](#), the subdivision administrator or hearing examiner shall use the following criteria for approval:

(a) The boundary line adjustment shall not result in the creation of an additional lot.

(b) With the exception of those boundary line adjustments [or lots within agricultural parcel reconfigurations that recognize an existing farmstead home site](#) located within the agricultural zone, the boundary line adjustment [or agricultural parcel reconfiguration](#) shall result in lots which contain sufficient area and dimensions to meet minimum requirements for width and area for a building site pursuant to this title.

(c) The boundary line adjustment [or agricultural parcel reconfiguration](#) shall be consistent with any restrictions, depictions or conditions regarding the overall area in a plat or short plat devoted to open space, environmental mitigation or conservation.

(d) The boundary line adjustment [or agricultural parcel reconfiguration](#) shall be consistent with any restrictions or conditions of approval for a recorded plat, short plat, zoning permit, or development permit.

(e) The boundary line adjustment [or agricultural parcel reconfiguration](#) shall not cause boundary lines to cross on-site sewage disposal systems or their reserve areas, prevent suitable area for on-site sewage disposal systems, or prevent adequate access to water supplies unless suitable mitigation including, but not limited to, the granting of utility easements is provided to the satisfaction of Whatcom County; provided, however, in the agricultural zone only those lots with existing on-site sewage disposal systems or potable water supplies are subject to this provision.

(f) The boundary line adjustment [or agricultural parcel reconfiguration](#) will not create a new access which is unsafe or detrimental to the existing road system because of sight distance, grade, road

geometry or other safety concerns, as specified in adopted Whatcom County road development standards.

(g) The boundary line adjustment or agricultural parcel reconfiguration on lots without an existing farmstead home site shall demonstrate adequate septic and potable water suitability. Applicants shall demonstrate adequate potable water availability per WCC 24.11. Applicants shall demonstrate septic suitability approval pursuant to WCC 24.05.

(3) Final Approval and Recording Required. To finalize an approved boundary line adjustment or agricultural parcel reconfiguration, the applicant must submit to the subdivision administrator within one year of preliminary approval final review documents meeting the requirements of approval.

(a) All persons having an ownership interest within the boundary line adjustment or agricultural parcel reconfiguration shall sign the final recording document in the presence of a notary public.

(b) Certified legal descriptions of the lots after the boundary line adjustment or agricultural parcel reconfiguration, together with conveyance document(s) and language clearly binding the property which is conveyed to the remainder portion of the property, shall be prepared by a title company or licensed surveyor for all lots affected by the boundary line adjustment or agricultural parcel reconfigurations.

(c) A title insurance certificate updated not more than 60 days prior to recording of the adjustment, which includes all parcels within the adjustment, submitted to the subdivision administrator with boundary line adjustment or agricultural parcel reconfiguration final review documents.

(d) A final boundary line or agricultural parcel reconfiguration map, prepared by a licensed surveyor, along with legal descriptions, shall be prepared and submitted for review and approval. Two map copies shall be provided for review demonstrating compliance with the preliminary boundary line adjustment or parcel reconfiguration approval.

(e) A boundary line adjustment or agricultural parcel reconfiguration is not considered approved until the conveyance documents have been duly stamped as exempt and is filed for record concurrently with all applicable disclosures of WCC 21.03.045 within 12 months of approval of final documents. Failure to record within 12 months of approval means the boundary line adjustment or agricultural parcel reconfiguration application is expired and must be resubmitted for review and approval. (Ord. 2009-030 § 1 (Exh. 1); Ord. 2009-007 § 1; Ord. 2000-056 § 1).

21.03.070 Inactive applications.

An applicant may place an exempt land division, boundary line adjustment, or agricultural parcel reconfiguration application, which has not yet received preliminary approval, on hold for a cumulative maximum of 180 days. This 180-day period shall not include time the applicant is performing studies required by the county when the study is provided within the time frame agreed to by the county and the applicant. Applications which fail to meet these time limits will be considered expired and void. The time periods of this

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chapter do not include the time during which the exempt land division was not actually pursued due to the pendency of administrative appeals or legal actions or due to the need to obtain any other government permits and approvals for the development that authorize the development to proceed, including all reasonably related administrative or legal actions on any such permits or approvals. (Ord. 2009-007 § 1; Ord. 2000-056 § 1).

21.03.080 Requirements for a fully completed exempt land division application.

The following, and any other information on a form prescribed by the subdivision administrator, is required for a complete application for exempt land divisions under WCC [21.01.040\(2\)\(b\)](#) and (k).

(1) Written Data and Fees.

- (a) Name, address and phone number of land owner, applicant, and contact person.
- (b) Intended uses.
- (c) A current title report or update of title report issued no more than 60 calendar days prior to application.
- (d) Assessor's parcel number (of the parent parcel).
- (e) Fees as specified in the Unified Fee Schedule.
- (f) Signature of all owners as shown on title report, and authorization for any agent to act on behalf of owners.

(2) Map Data.

- (a) Name of land owner.
- (b) Name of proposed land division (if an original drawing is prepared).
- (c) General layout of proposed land division.
- (d) Common language description of the general location of the land division.
- (e) Approximate location and names of existing roads identified as either public or private.
- (f) Vicinity map.
- (g) Common engineering map scale/north arrow/sheet numbers (on each sheet containing a map).
- (h) Section, township, range, and municipal and county lines in the vicinity.
- (i) General boundaries of the site with general dimensions shown.
- (j) Legal description of the land. (Ord. 2009-007 § 1; Ord. 2000-056 § 1).

21.03.085 Requirements for a fully completed boundary line adjustment or agricultural parcel reconfiguration application.

The following, and any other information on a form prescribed by the subdivision administrator, is required for a complete application.

(1) Written Data and Fees.

- (a) Name, address and phone number of land owner, applicant, and contact person.
- (b) Intended uses.
- (c) A current title report or update of title report issued no more than 60 calendar days prior to application.

- (d) Assessor's parcel numbers of existing parcels.
- (e) Fees as specified in the Unified Fee Schedule.
- (f) Signature of all owners as shown on title report, and authorization for any agent to act on behalf of owners.

(2) Map Data.

- (a) Names of land owners.
- (b) Name of proposed boundary adjustment.
- (c) Common language description of the general location of the land division.
- (d) Map at a common engineering scale of boundaries of existing parcels that are contributing to or receiving land from the proposed adjustment.
- (e) Approximate location and labeling of any disputed or undetermined property lines proposing to be resolved by the adjustment.
- (f) Clear depiction of property lines proposed for adjustment which identifies existing property lines and proposed property lines.
- (g) Legal description and area of original parcels.
- (h) Legal description and area of proposed adjusted parcels.
- (i) Approximate location and names of existing roads identified as either public or private.
- (j) Approximate location of existing buildings and existing on-site septic systems.
- (k) Approximate locations of existing utilities and infrastructure.
- (l) Vicinity map.
- (m) Common engineering map scale/north arrow/sheet numbers (on each sheet containing a map).
- (n) Section, township, range, and municipal and county lines in the vicinity.
- (o) General boundaries of the site with general dimensions shown. (Ord. 2009-007 § 1).

21.03.090 Original drawing.

Repealed by Ord. 2009-007. (Ord. 2000-056 § 1).

CHAPTER 21.04 SHORT SUBDIVISIONS

Sections:

- [21.04.010](#) Purpose.
- [21.04.031](#) Pre-application meeting.
- [21.04.032](#) Short subdivision application submittal.
- [21.04.033](#) Determination of completeness and vesting.
- [21.04.034](#) Application procedures.
- [21.04.035](#) Final short subdivision review process.
- [21.04.038](#) Applications subject to time limits.
- [21.04.040](#) Restriction of further division.
- [21.04.050](#) Development requirements.
- [21.04.060](#) Roads.
- [21.04.070](#) Public dedications.
- [21.04.080](#) Easements.
- [21.04.090](#) Water supply.
- [21.04.100](#) Sewage disposal.
- [21.04.110](#) Fire protection.
- [21.04.120](#) Short subdivision vacation and alteration.
- [21.04.130](#) Land survey.
- [21.04.140](#) Security.
- [21.04.150](#) Requirements for a fully completed application for short subdivisions.
- [21.04.160](#) Final review and submittal.
- [21.04.170](#) Disclosures and notes.
- [21.04.180](#) Agricultural short plat.

21.04.010 Purpose.

The purpose of this chapter is to establish or reference the procedure and requirements for the application, review and approval of short subdivisions.

....

21.04.180 Agricultural short plat.

The provisions of WCC [20.40.253](#) - ~~254~~ provide for the segregation of a farmstead parcel with an existing residence(s) from a remainder parcel used for farming in the Agriculture Zone. The remainder parcel is restricted to agricultural use only. Because no further residential development can occur on the remainder parcel and an existing residential structure is already on the farmstead parcel, many of the standard short plat requirements are unnecessary. Therefore, a shortened review process has been established.

Agricultural short plats that qualify under WCC [20.40.253](#) - ~~254~~ shall be subject to the following:

Deleted: [2](#)

Deleted: (1)

Deleted: [2](#)

Deleted: (1)

(1) Agricultural short plats that recognize an existing farmstead homesite shall be processed pursuant to all the requirements of this chapter except that the short plat will not be reviewed for compliance with:

(a) WCC [21.04.060](#) (Roads);

(b) WCC [21.04.090](#) (Water supply), when the remainder parcel will not require potable water;

(c) WCC [21.04.100](#) (Sewage disposal);

(d) WCC [21.04.130](#) (Land survey);

(e) Chapter [16.16](#) WCC (Critical Areas); and

(f) Shoreline master program.

(2) Any subsequent development must comply with all applicable codes.

(3) Survey Requirements – Partial. A survey, prepared by a professional land survey in accordance with WCC [21.09.010](#) and [21.09.020](#), which provides the location of at least two corners of the farmstead parcel shall be submitted. A survey is not required for the remainder parcel that cannot have further residential development.

CHAPTER 20.97 DEFINITIONS

Zoning Definitions

20.97.132 Farmstead parcel.

The “farmstead parcel” ~~is the legally subdivided~~ portion of the ~~parent parcel~~ containing ~~an existing or planned farmstead~~ home site. (Ord. 2005-073 § 1, 2005; Ord. 2001-020 § 1 (Exh. 1 § 3), 2001).

Deleted: includes that

Deleted: property

Deleted: primary and secondary agricultural structures and the

20.97.133 Farmstead home site.

The “farmstead home site” includes that portion of the ~~parent~~ parcel used for ~~existing or planned~~ residential buildings, uses accessory to residential buildings, drainfields, wells, wellhead protection area(s), established landscaped areas ~~contiguous with the non-agricultural built area~~, and structures as allowed in WCC ~~20.40.253~~ (Ord. 2005-073 § 1, 2005).

Deleted: farmstead

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Deleted: (a) through (d)

1 WHATCOM COUNTY COUNCIL
2 **Planning and Development Committee**
3

4 March 26, 2013
5

6 **CALL TO ORDER**
7

8 Committee Chair Bill Knutzen called the meeting to order at 3:00 p.m. in the Council
9 Chambers, 311 Grand Avenue, Bellingham, Washington.
10

11 **ROLL CALL**
12

13 (3:12:05 PM)
14

15 **Present:** Ken Mann, Bill Knutzen and Barbara Brenner.

16 **Absent:** None.

17 **Also Present:** Kathy Kershner, Pete Kremen, Sam Crawford and Carl Weimer.
18

19 **COMMITTEE DISCUSSION**
20

21 **1. DISCUSSION REGARDING A PROPOSED ORDINANCE AMENDING THE**
22 **WHATCOM COUNTY CODE TO ALLOW AGRICULTURE PARCEL**
23 **RECONFIGURATION AND RELATED CHANGES AFFECTING THE AGRICULTURE**
24 **ZONE AS APPROVED BY COUNCIL RESOLUTION NO. 2011-023 (AB2013-128)**
25

26 Brenner asked and there was discussion about accessing Planning Commission
27 minutes.
28

29 Samya Lutz, Planning and Development Services Department, submitted and read
30 from a presentation (*on file*) and gave a staff report.
31

32 Amy Keenan, Planning and Development Services Department, continued the
33 presentation on current parcel division options.
34

35 Lutz continued the presentation on the changes made since the introductory
36 discussion.
37

38 Crawford referenced the current parcel division options. He asked and there was
39 discussion of whether the two processes do not allow any additional building sites.
40

41 Kershner referenced the current parcel division options, the agricultural boundary
42 line adjustment option. She asked and there was discussion of the benefits of combining
43 the two existing lots of record instead of using the two lots separately.
44

45 Keenan continued the presentation on an agricultural short plat example.
46

47 Crawford stated and there was discussion of making the farmstead parcels as small
48 as possible to leave as much agricultural land intact as possible.
49

50 Keenan continued the presentation on the current range of fees and proposed
51 changes to the ordinance.
52

1 Knutzen asked and there was discussion on whether there are deed restrictions on
2 selling the agricultural parcel and whether the two parcels have to remain in common
3 ownership.

4
5 Keenan continued the presentation on examples of parcel reconfiguration.

6
7 Mann asked and there was discussion of whether there is disincentive to
8 reconfiguration if someone will lose potential development rights.

9
10 Kremen asked and there was discussion of the rationale for capping clustering to four
11 lots rather than six lots.

12
13 Brenner asked and there was discussion of how close clusters can be to each other.

14
15 Lutz continued the presentation on current draft amendments.

16
17 Kershner asked and there was discussion of the possibility of someone selling
18 development rights, and then doing this parcel reconfiguration.

19
20 Brenner asked and there was discussion of the possibility of neighborhood areas
21 outside of cities to enlarge a little bit to take up development rights.

22
23 Mark Personius, Planning and Development Services Department, answered
24 questions.

25
26 (3:56:53 PM)

27
28 Knutzen asked and there was discussion of poorer quality soils that don't meet the
29 definition of agricultural lands of long-term, commercial significance and of Whatcom County
30 Code 20.40.250 regarding deed restrictions and whether it applies to agricultural purchases
31 of development rights (PDRs).

32
33 Crawford asked and there was discussion about not forcing people into lot
34 consolidation.

35
36 Jeff Rainey submitted information (*on file*) and stated allow the Agricultural Advisory
37 Committee to work more on this proposed ordinance. He's against agricultural lot
38 reconfiguration due to concerns about encouraging development and how a developed lot
39 affects adjoining farm operations.

40
41 Henry Bierlink, Whatcom Farm Friends, stated he disagrees with Mr. Rainey. This is
42 an accommodation that is less than perfect. The perfect scenario is getting the 4,000
43 development rights out of the agricultural area to protect the resource land. However, the
44 County doesn't have enough money to buy out the development rights. Think about
45 transfers of development rights. Give people options to trade out their development rights.
46 There are places with poor soil where they can create receiving zones. The County will get
47 challenged, but should take that challenge. This tool makes sense. Agricultural values are
48 strong now, but won't always be. This provides an option for the future. This would be a
49 replacement for the agricultural protection overlay (APO).

50
51 Kate Blystone, Futurewise, stated they need to get development rights out of
52 agricultural land. It's possible to transfer those rights to urban growth areas. Take time

1 with this ordinance. Four Planning Commissioners voted against this item, and two of them
2 were farmers. Talk to them about their reasons for voting against it.

3
4 Kremen stated TDRs makes more sense than PDRs, which cost an excessive amount
5 of money. The Council must spend more time considering this issue.

6
7 Brenner asked and there was discussion of whether Futurewise will appeal the
8 County if the County tries to do something in the small communities outside the cities.

9
10 **2. QUARTERLY UPDATE ON THE 2016 URBAN GROWTH AREA REVIEW PROCESS**
11 **(AB2013-127) (4:17:05 PM)**

12
13 Matt Aamot, Planning and Development Services Department, gave a staff report
14 and discussed a schedule for the next few years, developed with City planners.

15
16 Brenner asked and there was discussion of councilmember attendance at the
17 meetings of the city and county officials.

18
19 Mann asked and there was discussion of how set the schedule is with all
20 governments and the land capacity analysis results being final after they adopt the
21 Comprehensive plan and facilities plans.

22
23 Crawford stated and there was discussion of staff communicating the Council's desire
24 to use the Office of Financial Management (OFM) middle population projection and concerns
25 from the cities about the Council adopting something very different from what they spent a
26 lot of resources on developing. Councilmembers need to stay engaged.

27
28 Henry Bierlink, Whatcom Farm Friends, stated the County must advocate in addition
29 to facilitate. Land use matters to agriculture.

30
31 Kate Blystone, Futurewise, stated the only non-Planning Commission or non-Council
32 public hearing on population projections is a town hall in July of 2013, which is not an ideal
33 time for a town hall meeting. Move it to the fall.

34
35 **OTHER BUSINESS**

36
37 There was no other business.

38
39 **ADJOURN**

40
41 The meeting adjourned at 4:33 p.m.

42
43 ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

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