WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

<table>
<thead>
<tr>
<th>Originator</th>
<th>2/28/05</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to</th>
</tr>
</thead>
<tbody>
<tr>
<td>Division Head</td>
<td>3/13/05</td>
<td>3/15/05</td>
<td>Introduction</td>
<td></td>
</tr>
<tr>
<td>Dept. Head</td>
<td>3/13/05</td>
<td>3/29/05</td>
<td>P&amp;D/Council</td>
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<td>Prosecutor</td>
<td>3/13/05</td>
<td>WHATCOM COUNTY COUNCIL</td>
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<td>Purchasing Budget</td>
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</tbody>
</table>

Executive:

TITLE OF DOCUMENT: Ordinance amending the text of the Residential Rural, Rural and Resort Commercial zoning districts and the definition of “public water” in the Official Whatcom County Zoning Ordinance (Title 20).

ATTACHMENTS:

(1) Proposed ordinance
(2) Planning Commission Findings of Fact & Reasons for Action, Conclusions, and Recommendations
(3) Planning Commission minutes

Note: Background materials are available for review at the County Council office.

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

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Amend the Official Whatcom County Zoning Ordinance (Title 20) to modify the definition of “public water” to be consistent with County and state regulations, to amend the Residential Rural, Rural and Resort Commercial zoning text to require a minimum five acre lot size and/or a maximum density of one dwelling/five acres if public water is not available when dividing land, to amend the Residential Rural zoning text to eliminate references to public sewer and modify minimum lot width, and amend the Rural text to delete a reference to cluster bonuses, which were previously eliminated from the zoning ordinance.

COMMITTEE ACTION:

3/29/2005: Committee recommended approval

COUNCIL ACTION:

3/15/2005: Introduced

Related County Contract #: Related File Numbers: Ordinance or Resolution Number: Ord. #2005-037

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.
ADOPTING AMENDMENTS TO THE RESIDENTIAL RURAL, RURAL AND RESORT COMMERCIAL ZONING DISTRICTS AND THE DEFINITION OF PUBLIC WATER

WHEREAS, It is appropriate to achieve consistency between various County codes and State regulations; and

WHEREAS, Several inconsistencies were identified that should be addressed; and

WHEREAS, Legal notice was published in the Bellingham Herald; and

WHEREAS, The Planning Commission held a public hearing on the proposal; and

WHEREAS, The Planning Commission has evaluated the proposed amendments; and

WHEREAS, the County Council has considered the Planning Commission’s Findings of Fact & Reasons for Action, Conclusions and Recommendations.

The Council makes the following findings of fact and conclusions:

FINDINGS OF FACT

1. Notice of the Planning Commission hearing for the subject amendment was posted on the County’s website on January 14, 2005.

2. Notice of the Planning Commission hearing for the subject amendment was published in the Bellingham Herald on January 16, 2005.

3. Notice of the Planning Commission hearing for the subject amendment was sent to city planners and Tribal representatives on January 18, 2005.

4. Notice of the subject amendment was sent to state agencies, including the Department of Community, Trade and Economic Development (CTED), on January 20, 2005.

5. A determination of non-significance (DNS) was issued pursuant to the State Environmental Policy Act (SEPA) on January 24, 2005.
6. The Planning Commission held a public hearing relating to the subject amendment on January 27, 2005.

7. The Whatcom County Land Division Regulations Title 21 require that a public water system must serve each lot in a short plat or long plat when subdividing land (WCC 21.04.090 and 21.05.080). However, there is an exception that short plats and long plats may utilize private wells if each lot is at least five acres or, if clustering is utilized, the gross density does not exceed one-dwelling/five acres. The existing Residential Rural, Rural and Resort Commercial zoning districts allow land divisions that create lots smaller than five acres without public water. This conflicts with the provisions of Land Division Regulations. The proposed amendment would require a five acre minimum lot size (or a density of one dwelling/five acres if clustering is utilized) if public water is not available in order to eliminate the inconsistency between the Zoning Ordinance and the Land Division Regulations.

8. Most Residential Rural zones are located in rural areas, outside of Urban Growth Areas (UGAs). The Growth Management Act discourages extension of sewer in rural areas (RCW 36.70A.110(4)), although there are certain exceptions. The reference to “sewer” in the Residential Rural zoning text should be eliminated, as the GMA generally discourages sewer in rural areas.

9. The Official Whatcom County Zoning Ordinance formerly allowed density bonuses in rural areas, but the Western Washington Growth Management Hearings Board invalidated this provision in 1996. Whatcom County repealed the density bonus provisions in the Rural zone in 1998 (Ordinance 98-083). The Comprehensive Plan policies were amended in 2004 to remove density bonus language relating to rural areas (Ordinance 2004-017). Therefore, section 20.36.251 of the Zoning Ordinance should be amended to eliminate a reference to the cluster bonus schedule that was previously eliminated from the Zoning Ordinance.

10. The definition of “public water” in section 20.97.330 of the Official Whatcom County Zoning Ordinance is inconsistent with the Washington Administrative Code and other portions of the Whatcom County Code. Therefore, this definition should be revised.

CONCLUSION

The subject amendment is consistent with Growth Management Act and Whatcom County Comprehensive Plan.
NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that:

Section 1. The Official Whatcom County Zoning Ordinance (Title 20) is hereby amended as shown on Exhibit A.

Section 2. Adjudication of invalidity of any of the sections, clauses, or provisions of this ordinance shall not affect or impair the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid.

ADOPTED this 29 day of March, 2005

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

______________________________
Dana Brown, County Council Clerk

______________________________
Laurie Caskey-Schreiber, Chairperson

APPROVED as to form:

______________________________
Civil Deputy Prosecutor

______________________________
Pete Kremen, Executive

Date: 3-31-05
Exhibit A

Amend the Residential Rural (RR) District text as follows:

20.32.251 Minimum lot size and maximum density.

For the purpose of creating new building lots within the Residential Rural District, several land use densities are provided. The minimum lot size and maximum density requirements for new construction vary according to the method of subdivision and whether or not public sewer and/or water is available, as well as whether stormwater collection and detention facilities, where identified by the appropriate Comprehensive Plan policies, serve the project site. Where the conventional subdivision method is used to create new building lots, if public water is not provided the minimum lot size shall be five acres one acre or, if public sewer and/or water and, where specified in the Comprehensive Plan, stormwater drainage facilities are provided, the minimum lot size shall be 36,000 square feet for RR-1 or 18,000 square feet for RR-2 areas or 12,000 square feet for RR-3 areas. The lot cluster subdivision method only shall be used if public sewer and/or water is provided, and then the minimum lot size is based on the district’s setback requirements (WCC 20.80.200) and the Whatcom County Health and Human Services Department regulations for on-site septic disposal, but shall not be less than that shown below. (Ord. 98-083 Exh. A § 28, 1998; Ord. 90-45, 1990; Ord. 87-23, 1987; Ord. 86-29, 1986; Ord. 82-58, 1982).
20.32.253 Maximum density and minimum lot size.

<table>
<thead>
<tr>
<th>District</th>
<th>Gross Density</th>
<th>Minimum Lot Size</th>
<th>Min. Reserve Area (Cluster Subdivisions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>RR-1, RR-2, RR-3: without public water with neither public sewer or water</td>
<td>1 dwelling unit/5 acres, 1 dwelling unit/1 acre</td>
<td>5 acres, 1 acre, N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

With public sewer and/or water, and stormwater detention and collection facilities:

<table>
<thead>
<tr>
<th>District</th>
<th>Gross Density</th>
<th>Minimum Lot Size</th>
<th>Min. Reserve Area (Cluster Subdivisions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>RR-1</td>
<td>1 dwelling unit/1 acre</td>
<td>36,000 sq. ft., 15,000 sq. ft., 30%</td>
<td></td>
</tr>
<tr>
<td>RR-2</td>
<td>2 dwelling units/1 acre</td>
<td>18,000 sq. ft., 15,000 sq. ft., 10%</td>
<td></td>
</tr>
<tr>
<td>RR-3</td>
<td>3 dwelling units/1 acre</td>
<td>12,000 sq. ft., 8,000 sq. ft., 25%</td>
<td></td>
</tr>
</tbody>
</table>


20.32.254 Minimum lot width and depth.

<table>
<thead>
<tr>
<th>District</th>
<th>Width at Street Line</th>
<th>Width at Bldg. Line</th>
<th>Minimum Mean Depth</th>
</tr>
</thead>
<tbody>
<tr>
<td>RR: without public water with neither public sewer or water</td>
<td>300' 30' Conventional, N/A Cluster</td>
<td>80'</td>
<td>100'</td>
</tr>
<tr>
<td>RR: with public sewer and/or water, and stormwater collection and detention facilities</td>
<td>30' 30'</td>
<td>70'</td>
<td>80'</td>
</tr>
</tbody>
</table>

(Ord. 98-083 Exh. A § 31, 1998; Ord. 86-29, 1986; Ord. 84-38, 1984; Ord. 82-58, 1982).

Amend the Rural (R) District text as follows:

20.36.251 Minimum lot size and maximum density.

For the purpose of creating new building lots within the Rural District, several land use densities are herein provided. The minimum lot size and maximum density requirements for new construction vary according to the method of subdivision design. Where the conventional subdivision method is used to create new building lots, the minimum lot size shall be two, five or 10 acres, depending on the specific zone classification and whether public water is available. Where the lot cluster subdivision method is used, the minimum lot size is based on the consideration of the district's setback requirements (WCC 20.80.200) and the Bellingham-Whatcom County health department.
regulations for on-site septic disposal, but shall not be less than that shown below. Where the cluster subdivision method is used, dwelling unit densities may be increased according to the cluster bonus schedule in WCC 20.36.252 below; provided, that all of the applicable cluster subdivision requirements are met. Lots for public facilities approved under WCC 20.36.151 are not subject to minimum lot size requirements. (Ord. 98-060 § 1, 1998; Res. 98-033 Exh. A, 1998; Ord. 96-056 Att. A § H4, 1996; Ord. 90-45, 1990; Ord. 87-12, 1987; Ord. 87-11, 1987).

20.36.252 Cluster bonus schedule.

Repealed by Ord. 98-083.

20.36.253 Maximum density and minimum lot size.

<table>
<thead>
<tr>
<th>District</th>
<th>Gross Density</th>
<th>Minimum Lot Size</th>
<th>Min. Reserve Area (Cluster Subdivisions)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Conventional</td>
<td>Cluster</td>
</tr>
<tr>
<td>R-2A without public water</td>
<td>1 dwelling unit/5 acres</td>
<td>5 acres</td>
<td>1 acre</td>
</tr>
<tr>
<td></td>
<td>1 dwelling unit/2 acres</td>
<td></td>
<td></td>
</tr>
<tr>
<td>R-2A with public water</td>
<td>1 dwelling unit/2 acres</td>
<td>2 acres</td>
<td>15,000 sq. ft.</td>
</tr>
<tr>
<td>R-5A without public water</td>
<td>1 dwelling unit/5 acres</td>
<td>5 acres</td>
<td>1 acre</td>
</tr>
<tr>
<td>R-5A subject to Agricultural Protection Overlay (Chapter 20.38 WCC)</td>
<td>1 dwelling unit/5 acres</td>
<td>Not applicable</td>
<td>15,000 sq. ft.</td>
</tr>
<tr>
<td>R-5A with public water</td>
<td>1 dwelling unit/5 acres</td>
<td>5 acres</td>
<td>15,000 sq. ft.</td>
</tr>
<tr>
<td>R-10A without public water</td>
<td>1 dwelling unit/10 acres</td>
<td>10 acres</td>
<td>1 acre</td>
</tr>
<tr>
<td>R-10A subject to Agricultural Protection Overlay (Chapter 20.38 WCC)</td>
<td>1 dwelling unit/10 acres</td>
<td>Not applicable</td>
<td>15,000 sq. ft.</td>
</tr>
<tr>
<td>R-10A with public water</td>
<td>1 dwelling unit/10 acres</td>
<td>10 acres</td>
<td>15,000 sq. ft.</td>
</tr>
<tr>
<td>Public facilities approved under WCC 20.36.151</td>
<td>Not applicable</td>
<td>No minimum</td>
<td>No minimum</td>
</tr>
</tbody>
</table>

Amend the Resort Commercial (RC) District text as follows:

20.64.250 Minimum lot size.

Minimum lot size varies according to the availability of public water and/or public sewer. Where public water service is not provided, the minimum parcel size shall be five acres. Where either public sewer or public water service is provided but public sewer is not provided, the minimum parcel size and minimum site area for each dwelling unit shall be 18,000 square feet when the conventional method is utilized and 15,000 square feet when the cluster method is utilized but one half acre or may be greater if the Bellingham-Whatcom County health department finds that conditions require the larger size. Where neither public sewer or water service is provided, the minimum parcel size and minimum site area for each dwelling unit shall be one acre, unless the Bellingham-Whatcom County health department requires greater size. The following lot sizes apply only where both public sewer and public water serve the project.

.251 Single-family dwellings and duplexes shall have a minimum net parcel size of 6,000 square feet per family.

.252 Multifamily dwellings including all condominiums except time share condominiums shall have a minimum net parcel size of 8,000 square feet and shall have a site of at least 2,000 square feet for each dwelling unit.

.253 Mobile home and recreational vehicle parks shall have a minimum net parcel size of at least 8,000 square feet.

.254 Hotels and motels and time share condominiums shall have a minimum net parcel size of 8,000 square feet and shall have a site of at least 1,600 square feet for each sleeping unit.

.255 Nonhabitation commercial uses shall have a minimum lot size consistent with the area required to meet the building setback, lot coverage and development standards of this district. (Ord. 2001-024 § 1, 2001; Ord. 88-93, 1988).
20.64.260 Maximum density.

Maximum density varies according to the availability of public water and/or public sewer. Where public water service is not provided, the maximum density for dwelling units, or dwelling unit equivalent as determined by the Whatcom County health department, shall be one dwelling/five acres. Where either public sewer or public water service is provided but public sewer is not provided, the maximum density for dwelling units, or dwelling unit equivalent as determined by the Bellingham-Whatcom County health department, shall be two per acre unless the health department finds that conditions require a lower density. Where neither public sewer or water service is provided, the maximum density for dwelling units, or dwelling unit equivalents, shall be one per acre unless the Bellingham-Whatcom County health department requires a lower density. The following densities apply only where both public sewer and public water serve the project.

.261 Single-family dwellings and duplexes shall not exceed a density of seven units per acre.

.262 Multifamily dwellings including all condominiums except time share condominiums shall not exceed a density of 22 units per acre.

.263 Mobile home parks shall not exceed a density of seven units per acre.

.264 Recreational vehicle parks shall not exceed a density of 15 units per acre.

.265 Nonresort-oriented hotels and motels shall not exceed a floor area ratio (FAR) of .50.

.266 Resort-oriented hotels and motels including time share condominiums shall not exceed a floor area ratio (FAR) of .56.

.267 Nonhabitation commercial uses shall not exceed a floor area ratio (FAR) of .70. (Ord. 2001-024 § 1, 2001; Ord. 88-93, 1988).
20.64.270 Density, lot size and lot configuration by method of subdivision.

20.64.271 Maximum density and minimum lot size.

<table>
<thead>
<tr>
<th>District</th>
<th>Gross Maximum Density</th>
<th>Minimum Lot Size</th>
<th>Min. Reserve Area (Cluster Subdivisions)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Conventional</td>
<td>Cluster</td>
<td></td>
</tr>
<tr>
<td>RC without either public sewer or water</td>
<td>1 dwelling unit/5 acres</td>
<td>5 acres</td>
<td>Not applicable</td>
</tr>
<tr>
<td></td>
<td>1 dwelling unit/1 acre</td>
<td>4-acre</td>
<td></td>
</tr>
<tr>
<td>RC: with either public sewer or water but without public sewer</td>
<td>2 dwelling units/1 acres</td>
<td>18,000 sq. ft.</td>
<td>15,000 sq. ft.</td>
</tr>
<tr>
<td>RC: with both public sewer and water and stormwater collection and detention facilities</td>
<td>7 to 22 dwelling units/acre as given</td>
<td>6,000 sq. ft.</td>
<td>Not applicable</td>
</tr>
</tbody>
</table>


20.97.330 “Public water” means any system, excluding a system serving only one single-family residence and a system with four or fewer connections all of which serve residences on the same farm, providing piped water for human consumption as defined by Chapter 24.11 of the Whatcom County Code and Chapters 246-290 or 246-291 WAC, as they now exist or are subsequently amended.

“Public water” means, for land use planning purposes, a system or water supply intended or used for human consumption or other domestic uses, including source, treatment, storage, transmission and distribution facilities; where water is furnished to any community, collection or number of individuals, or is made available to the public for human consumption or domestic use, and is managed by: a municipality or a special purpose district; or a Class I water system as defined in WAC 248-54-560(1) in areas having existing concentrations of parcels of one acre or less in size; or any class of water system that is deemed appropriate by the Bellingham-Whatcom County health department to serve the densities provided in the appropriate subarea Comprehensive Plan and attendant zoning regulations that has defined boundaries within which all land has legal rights to water service from the association, has a water system plan on file with the Bellingham-Whatcom County health department that is in accordance with WAC 248-54-065(4), (5), (6), and meets engineering requirements consistent with the class of system. (Ord. 98-083 Exh. A § 56, 1998; Ord. 86-29, 1986).