



WHATCOM COUNTY

WASHINGTON

Planning & Development Services

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MEMORANDUM

Date: February 3, 2025

To: Whatcom County Council

From: Mark Personius AICP, PDS Director

Re: Ordinance Adopting Amendments to WCC Title 20 and 22 to Enact SSB 5290 Regarding Local Project Review

Dear Councilmembers,

As you all are aware, PDS has been working on a number of draft code amendments to enact SSB 5290 regarding local project review to reduce maximum permit processing timeframes. On January 28, 2025 a public hearing was held on the January 14, 2025 version of the ordinance (Exhibit A). Public testimony occurred at the hearing with a few outstanding items. PDS have been addressed and resolved. A revised Exhibit A has been submitted for Council consideration (dated February 3, 2025).

An email with the revised Exhibit A and a brief explanation of our response was sent to the BIAWC as well as Mr. Browne for review. The parties responded with three modifications and expressed support for what is being presented to Council for introduction on February 11, 2025 and public hearing on February 25, 2025.

A summary of the concerns raised and PDS's response is below:

Reference to the Administrative Manual in the Site Plan definition (WCC 20.97.190)

PDS has proposed removal of the reference to the Administrative Manual in the definition. As we work toward an online portal for applications, PDS will continue to refine and clarify the application submittal requirements to be consistent with the intent and language of SSB 5290.

Requirement for Site Plan Approval Prior to Building Permit (WCC 22.05.023)

The site plan approval language has been modified to allow review of the site plan through the project permit. In WCC 20.97.106 defines a Project permit as:

Project Permit or Project Permit Application. "Project permit" or "project permit application" means any land use or environmental permit or license required from Whatcom County for a project action, including but not limited to building permits, subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, site plan reviews, permits or approvals required by critical area ordinances, site specific rezones authorized by a comprehensive plan or subarea plan, but excluding the adoption or amendment of a comprehensive plan, subarea plan, or development regulations except as otherwise specifically included in this section.

A site plan may be approved as part of the project permit application, including building permit, conditional use permit, and subdivisions among other permit types. No separate application will be necessary.

PDS has also left an option for a standalone approval of the site plan through the Site Plan Review application (as noted in Table 1 Land Use Review and Approval Process Table). This allows flexibility for the public to obtain an approved site plan prior to application of a building permit at their own discretion. This also allows an applicant to vest approval of that site plan for two years with an opportunity of a one-year extension.

To apply for a building permit application without a prior site plan approval, an applicant would be required to submit all items necessary for approval of a site plan as well as all items required for a complete building permit.

Burden of Proof Language (WCC 22.05.080(2))

This has been modified to include the recommendation from Mr. Browne. The burden of proof language now includes "...using the Preponderance of the Evidence standard."

Type IV Permit Review Timeframes (WCC 22.05.131(1)(a))

The proposed ordinance has been updated to include a 170-day timeframe for Type IV permits. PDS cannot predict when the Whatcom County Hearing Examiner will issue a recommendation to the Council, nor when the Council may reach a final decision on a Type IV permit. Therefore, in the event the 170-day timeframe cannot be met, PDS will likely use WCC 22.05.130(1)(b)(vi) and work with an applicant to mutually agree upon an alternative timeframe. The only other alternative would be for the permit application to expire after day 170 if the permit has not been approved by Council.

Applicability of Time Limits (WCC 22.05.130(1)(d))

PDS had reworded this language in the January 14, 2025 revision. It appears the intent of the comment has been addressed by the new language.

Thank you for your time and consideration of the proposed ordinance as currently presented by the department.