

**WHATCOM COUNTY
PLANNING COMMISSION**

**Density, Lot Size, Setback
Zoning Text Amendments**

FINDINGS OF FACT AND REASONS FOR ACTION

Background Information

1. The subject proposal includes the following amendments to the Official Whatcom County Zoning Ordinance (Title 20):
 - a. Deleting a statement defining “minimum density” and making other amendments to the Urban Residential District (WCC 20.20);
 - b. Amending the density, minimum lot size, and other provisions in the Urban Residential – Medium Density District (WCC 20.22);
 - c. Deleting a statement defining “minimum density” and making other amendments to the Urban Residential Mixed District (WCC 20.24);
 - d. Amending the density, public water and sewer, and other provisions in the General Commercial District (WCC 20.62);
 - e. Amending the density, minimum lot size, public water and sewer, and other provisions in the Resort Commercial District (WCC 20.64);
 - f. Amending the setback requirements for the Resort Commercial District in the Supplementary Requirements (WCC 20.80); and
 - g. Adding a definition of “Minimum net density” (WCC 20.97).
2. A Determination of Non-Significance was issued by the SEPA Responsible Official on April 11, 2023 (File # SEPA2023-00027).
3. Notice of the Planning Commission hearing for the subject amendments was published in the Bellingham Herald on April 28, 2023.
4. Notice of the Planning Commission hearing for the subject amendments was posted on the County website on April 26, 2023.

5. Notice of the Planning Commission hearing was sent to the County's e-mail list on April 28, 2023.
6. The Planning Commission held a public hearing on the subject amendments on May 11, 2023.
7. In order to approve an amendment to the development regulations, the County must find that the amendment is consistent with the comprehensive plan (WCC 22.10.060(2)).

Whatcom County Comprehensive Plan

8. Whatcom County Comprehensive Plan policies relating to urban growth include:
 - Policy 2A-1: Concentrate urban levels of development within designated urban growth areas.
 - Policy 3C-6: In UGAs, consider easing lot consolidation criteria, increasing density, and decreasing minimum lot sizes, in the interest of serving housing affordability.
 - Policy 3G-4: Allow development of smaller lots and creative options.
9. The State Department of Commerce *Housing Memorandum: Issues Affecting Housing Availability and Affordability* (June 2019) identifies "Reasonable Measures as Tools for Increasing Housing Availability and Affordability" including:
 - Allow or require small lots (5,000 square feet or less) for single-family neighborhoods within UGAs. Small lots limit sprawl, contribute to the more efficient use of land, and promote densities that can support transit. Small lots also provide expanded housing ownership opportunities to broader income ranges and provide additional variety to available housing types (p. 116).
10. Whatcom County Comprehensive Plan Goal 2P states:
 - . . . The County should approve new residential developments at overall average net densities as shown below, while respecting unique characteristics of each community:
 - Birch Bay – five to ten units per net acre . . .

11. The Birch Bay Urban Growth Area (UGA) includes land zoned Urban Residential Medium Density (URM). The URM-6 zone does not require a minimum net density for residential development. Therefore, development can occur below the Comprehensive Plan goal of 5 to 10 units/acre. For example, between 2016 and 2021, the achieved net density for the URM-6 zone in the Birch Bay UGA was 3.3 units/acre for single family development (*Buildable Lands Report 2022 Whatcom County Review and Evaluation Program*, Revised February 27, 2023, p. 49). Requiring residential units to be developed at a minimum densities in the URM-6 zone is consistent with and will implement *Whatcom County Comprehensive Plan Goal 2P*.
12. The Birch Bay UGA includes land zoned General Commercial (GC). The GC zone does not require a minimum net density for residential development. Therefore, development can occur below the Comprehensive Plan goal of 5 to 10 units/acre. Requiring residential units to be developed at a minimum densities in the GC zone is consistent with and will implement *Whatcom County Comprehensive Plan Goal 2P*.
13. The Birch Bay UGA includes land zoned Resort Commercial (RC). The RC zone does not require a minimum net density for residential development. Therefore, development can occur below the Comprehensive Plan goal of 5 to 10 units/acre. Requiring residential units to be developed at a minimum densities in the RC zone is consistent with and will implement *Whatcom County Comprehensive Plan Goal 2P*.
14. A definition of "Minimum net density" will be inserted in WCC 20.97. That definition will calculate minimum number of dwelling units per net acre after deducting areas within the 100-year floodplain, areas restricted from development by critical area buffers or shoreline setbacks, and areas used for common facilities such as road rights of way or easements, utility easements, stormwater facilities, parks, and common open space and land devoted to commercial uses in a mixed use development.
15. The "Setback Table" in the Zoning Code requires a 5' side and rear yard setback in the Resort Commercial District (WCC 20.80.210(5)(b)). However, there are special provisions in the Zoning Code that modify these setbacks under certain circumstances, including WCC 20.80.253(4)(b) that requires "Side and rear yard setbacks for multifamily housing, recreational vehicle parks, and mobile home parks shall be 20 feet."
16. There are a variety of uses in the Resort Commercial District that are not subject to the 20' side yard setback including but not limited to: Retail and office uses, restaurants, hotels, motels, single family homes, fire stations, community centers, schools, and retirement homes. It's unclear why multifamily housing, RV parks, and mobile home parks were singled out for a larger setback under WCC 20.80.253(b). Given that other uses that could

have greater height are not included and that uses with lesser height (RV and mobile home parks) are included, it does not appear that this provision was intended to address view protection.

17. The subject amendments delete WCC 20.80.253(b) that require "Side and rear yard setbacks for multifamily housing, recreational vehicle parks, and mobile home parks shall be 20 feet." WCC 20.80.950 (Mobile home park standards) and WCC 20.80.955 (RV Park Standards) also require a 20' setback for these uses. Therefore, the effect of would be to eliminate the 20' setback for multifamily housing.
18. The subject amendments apply to the Birch Bay UGA and other areas of the County. These amendments further the *Whatcom County Comprehensive Plan* goals and policies by concentrating urban levels of growth in UGAs, allowing increased density, and allowing smaller lots in UGAs.

Buildable Lands Report

19. Whatcom County and the cities revised the *Buildable Lands Report 2022 – Whatcom County Review and Evaluation Program* on February 27, 2023. This Report was issued pursuant to RCW 36.70A.215, the "Review and Evaluation Program" requirements of the Growth Management Act (GMA).
20. The *Buildable Lands Report 2022 – Whatcom County Review and Evaluation Program* shows that reasonable measures are needed for the Birch Bay UGA.
21. Specifically, the *Buildable Lands Report 2022 – Whatcom County Review and Evaluation Program* states:

. . . Residential development in the Birch Bay UGA between 2016 and 2021 has occurred at an overall net density less than anticipated in the *Whatcom County Comprehensive Plan*. Additionally, there is not enough capacity in the Birch Bay UGA, with current density assumptions, to accommodate the projected residential growth in the remaining portion of the planning period (between 2021 and 2036). The single family unit capacity in the Birch Bay UGA is insufficient to accommodate the estimated dwelling units needed between 2021 and 2036. Therefore, reasonable measures are appropriate. . . (p. 52).
22. The GMA, at RCW 36.70A.215(1)(b) states:

. . . Reasonable measures are those actions necessary to reduce the differences between growth and development assumptions and targets contained in the countywide planning policies and the county and city comprehensive plans with actual development patterns. . .

23. The *Buildable Lands Report 2022 – Whatcom County Review and Evaluation Program* states that:

. . . potential reasonable measures the County may consider for the Birch Bay UGA include:

- Increasing the minimum net residential density and/or adopting maximum lot size in the UR4 zone (WCC 20.20);
- Adopting minimum net residential density requirements and/or maximum lot size in the URM6 zone (WCC 20.22);
- Adopting minimum net residential density requirements and/or maximum lot size in the GC zone (WCC 20.62); and/or
- Adopting minimum net residential density requirements and/or maximum lot size in the RC zone (WCC 20.64). . . (pp. 53 and 54).

24. The subject amendments constitute “reasonable measures” for the Birch Bay UGA under RCW 36.70A.215.

CONCLUSION

The subject Whatcom County Zoning Code text amendments are consistent with the approval criteria of WCC 22.10.060(2).

RECOMMENDATION

Based upon the above findings and conclusions, the Whatcom County Planning Commission recommends approval of the following amendments to the Whatcom County Zoning Code:

Exhibit A, Urban Residential District (WCC 20.20).

Exhibit B, Urban Residential – Medium Density District (WCC 20.22).

Exhibit C, Urban Residential Mixed District (WCC 20.24).

Exhibit D, General Commercial District (WCC 20.62).

Exhibit E, Resort Commercial District (WCC 20.64).

Exhibit F, Supplementary Requirements (WCC 20.80).

Exhibit G, Definitions (WCC 20.97).

WHATCOM COUNTY PLANNING COMMISSION



Kimberley Lund, Vice Chair



Tammy Axlund, Secretary

5/12/23
Date

5/12/23
Date

Commissioners voted to recommend approval on May 11, 2023 (vote was 5-0, with 1 member abstaining and 3 members absent). Members present at the meeting when the vote was taken: Kelvin Barton, Daniel Dahlquist, Stephen Jackson, Kimberley Lund, Dominic Mocerri, and Scott Van Dalen.