



Memorandum

TO: The Honorable County Council
Jack Louws, County Executive

FROM: Cliff Strong, Senior Planner

THROUGH: Mark Personius, Director

DATE: January 18, 2019

SUBJECT: Code Scrub 2018

This is a continuation of the discussion started on January 15, 2019, of some minor amendments to WCC Titles 20 (Zoning), 21 (Land Division Regulations), and 22 (Land Use and Development Procedures). This is our annual “code scrub,” wherein staff proposes various amendments to clarify code and fix inconsistencies and grammar they have found over the year. No major policy changes are proposed.

Mea Culpa

I would first like to apologize for some confusion at that meeting. Evidently, there’s a glitch in the new agenda bill system. If a Word document (such as Exhibit A) is attached, the program converts it to PDF, but in doing so removes all the strikethrough text as well as the underline showing new text, and in so doing changes the page numbers. Thus, Council could not see what was existing vs. new text and what was being proposed for deletion. It also made it difficult for us to quickly find any one issue Council was referring to, because our page numbers were different than yours. This issue has been discussed with Council staff and a protocol now put into place so hopefully that doesn’t happen again. A new Exhibit A is also being provided, this time showing the strikethrough/underline.

Councilmember Issues Raised

Though time was short and we didn’t get to discuss most of the proposed amendments, some Councilmembers did raise issues they had with a few of the proposed amendments.

Councilmember Brenner said that there were typos and grammatical errors in some of the text. However, these were in fact due to the glitch raised above and should be rectified with the replacement Exhibit A we’ve provided.

She also expressed concerns about the proposed amendments to the hazard tree rules (Item 5 of Exhibit A), essentially saying that she would prefer simpler rules regarding their removal. However, in speaking with her this week, she was under the impression that the sections proposed for amendment applied countywide. They do not¹. The sections proposed for amendment apply only in the Lake Whatcom Watershed Overlay District (Chapter 20.51) and the Water Resource Protection Overlay District (Lake Padden and Lake Samish watersheds, Chapter 20.71). These rules have been in place since those districts were first adopted in 2002 to protect the watersheds, and further amended when Council revised the stormwater/low impact development (LID) regulations in 2016, again to protect the

¹ WCC 16.16, the Critical Areas Ordinance, does contain other rules about hazard trees which do apply countywide, but then only in critical areas. Other than standardizing the definitions, the Critical Areas Ordinance hazard tree regulations themselves are not subject to any proposed changes in this code scrub.

watersheds. Through this code scrub, staff is only trying to eliminate inconsistencies², not change policy. If Council still has issues with the proposed amendments, staff suggests just pulling from consideration Item 5 (the amendments to the Overlay Districts). However, we still recommend acting on Item 4, amending the definition of hazard tree, so that we don't have multiple definitions of the same thing.

CM Brenner also had an issue with the permissible height of fences in front yards (4 and 6 feet, depending on where located; Item 9 of Exhibit A). However, after speaking with her, her primary issue was with how staff characterized the reason for a height limit of front yard appurtenances. Staff is not proposing to change these existing height limits, only reorganizing the language to make it clearer. We have, however, removed the explanatory language to which she objected.

CM Browne asked whether electric vehicle charging stations could be a permitted use rather than an accessory use. Staff would suggest not, for two reasons:

- First, these stations are basically parking lots with charging equipment at each of the 5-10 stalls they typically occupy. We only allow parking lots as primary permitted uses only in the Airport Operations District, and these are all for long-term airport parking.
- Second, Tesla (with whom we've met, but potentially other companies as well) prefers to lease underused parking stalls from existing commercial uses so that they don't have to install the parking lot, and so their customers can shop or eat while waiting for their car to charge (typically 45 – 60 minutes), a very symbiotic relationship.

Staff Recommendation

Staff recommends that the Council's Planning & Development Committee review and discuss the attached staff report and Exhibit A showing the proposed amendments, introduce the ordinance on January 29th, and hold a public hearing on February 12th to adopt these provisions.

² Though they both say the removal of hazard trees is exempt from obtaining a tree removal permit, they also say you have to meet the requirements of (5), which require obtaining a tree removal permit.