

---

**From:** Gov Affairs <GovAffairs@BIAWC.com>  
**Sent:** Monday, January 27, 2025 2:06:50 PM (UTC-08:00) Pacific Time (US & Canada)  
**To:** Council <Council@co.whatcom.wa.us>  
**Cc:** dominic@mocericonstruction.com <dominic@mocericonstruction.com>; Craig Parkinson <craig@cascadecivil.com>; Dan Dunne <dan.dunne@cazconstruction.com>  
**Subject:** SB 5290 - Amendments to Whatcom County Code

RE: Senate Bill 5290 – Amendments to Whatcom County Code Titles 20 and 22.

Council Members,

Council is again being asked to review and approve amendments to Whatcom County Code Titles 20 and 22 to comply with Senate Bill 5290 (2023 Legislature) (SB5290). I spoke during the Committee of the Whole on January 14 to explain that, while the amendments should be introduced to move this process forward, there was a remaining issue concerning Site Plan Approvals. It was requested that I present the dispute in the simplest terms possible and propose a resolution to the matter for your consideration. I hope this comment meets those expectations and invite you contact me with any questions you might have.

Council will recall the introduction of a prior version of these amendments last November created some controversy. Although PDS proposed to consolidate many permits to meet the SB5290 timelines, staff also proposed to remove critical area determinations outside the permitting process and without an established timeline. That proposal was roundly rejected by the building community and led to several stakeholder meetings in December and January.

The current version introduced the evening of January 13 is, again, an attempt by PDS to remove critical area review from consolidated permit applications and “repackage” that review into the Site Plan Approval making it a new permit. This action not only defeats the spirit of SB 5290, it is not in keeping with the plain language of that legislative enactment.

The PDS amendments in Table 1 list various structural permits, including Single Family Residences (SFR) under the heading “Building Permit,” which is exactly correct. Site Plan Approval, however, is now specified as a “Use Permit” and identifies that permit as being subject to a “Type 1” process. See, Exhibit “A,” WCC § 22.05.020(3). Since both the structural permit and the new site plan permit are both type 1 processes, the following timeline is most likely under the amendments:

Site Plan Review:

Complete Application-	28 days
<u>Issuance of Permit-</u>	<u>65 days</u>
Total days	93 days

SFR Building Permit:

Complete Application-	28 days
<u>Issuance of Permit-</u>	<u>65 days</u>
Total days	93 days
Total Days for SFR Permit	186 days (~6 months)

PDS' proposal to allow six months for approving a single-family residence project by elevating "site plan approval" to "permit" status and imposing additional timelines on that approval fails to meet both the basic intent of SB5290 and is contradictory to the stakeholder concerns expressed over the past couple months. This is disappointing.

As I promised in my discussion with the council two weeks ago, I would bring this matter to the BIAWC Government Affairs committee's attention for more discussion. Based on that discussion, the following concerns were primary for the BIAWC members.

1) As stated above, repackaging the site approval process, the process during which most critical area evaluation occurs, is another attempt to redefine PDS processes to remove critical areas from permitting processes and place those discussions in a stand-alone process.

2) The sudden attempt to reclassify site approvals as a "permit" does not reflect current practice. PDS' new Administrative Manual defines a site approval as "guidance for the permit pathway leading to a structural permit." Whatcom Co. Planning & Development Svcs. Administrative Manual, pg. 8 (Jan. 17, 2025). The Manual goes on to state:

The Site Plan Review verifies the layout of an entire proposal before development takes place to assist applicants in planning before committing to the structural design of a building. The Site Plan Review includes road access, fire safety and access requirements, drinking water and septic or sewer installations, as well as structure location, especially in relation to critical areas and other natural resources.

*Id.* (Emphasis added.) Discussions with BIAWC members clarifies site plans have always been an integral part of the permitting process but **not** a permit process unto itself.

3) A cursory review of that manual demonstrates that a site plan is nearly a required element for every process described. It is impossible to believe that introducing a second permitting process for nearly every action PDS confronts somehow leads to greater efficiencies.

4) PDS staff have stated that the department implemented four (4) provisions permitted in SB 5290 to avoid having to refund permit fees if timelines were not met. These provisions, if fully implemented, should go a long way to mitigating the site plan process delays staff fear. Staff, in the alternative, should be working to find the efficiency the legislation allows including:

a) PDS has two on-call consultants to assist if permit volume rises beyond current staff ability. If site plans included with structure permit applications are too voluminous, the consultants should be utilized.

b) PDS' memo specifies that housing is allowed in all residential zones with the use of an administrative use permit or a conditional use permit; there is no mention of the new site plan use permit, but only the other two items listed as "use permits" in Table 1. This only supports the view that the site plan is a part of a building permit, not a stand-alone permit!

c) PDS had the option to conduct an application fee analysis to determine if fees were reasonable. During the stakeholder meetings, the building community stated that fees were "likely too low" and that if fees did not support the hiring of appropriate staff to conduct application reviews in a timely manner, the fees were *de facto* unreasonable. The BIAWC all but demanded that the County review PDS fees with a view that fees should support appropriate staffing levels to complete applications in a reasonable time.

Finally, PDS maintains a list of approved wetland and critical area consultants. Perhaps PDS should adopt procedures that allow site plans developed with the involvement of these consultants to negate the need for site visits by PDS staff to “confirm” what the approved consultants have already concluded.

Using nearly the same language in the proposed ordinance, I would suggest the following amendments:

Table 1: Strike “Site Plan Approval (SPR) from the “Use Permit” category. *Substitute Ordinance, Exhibit “A,”* pg. 9.

#### 22.05.023 Site Plan Approval.

(1) Except as provided below, site plan approval is required for many actions, including land use and building permits, to ensure the proposal meets development requirements and standards. Where a site plan is submitted in conjunction with an application for a land use permit, it shall be combined and reviewed as part of that project permit; otherwise, an individual site plan approval application is required to be submitted.

(2)(1) Site plan approval is not required for interior alterations unless they result in the following:

(a) Additional sleeping quarters or bedrooms;

(b) Nonconformity with Federal Emergency Management Agency substantial improvement thresholds; or,

(c) An increase in the total square footage or valuation of the structure that requires upgraded fire access or fire suppression systems.

(3)(2) If a site plan is not required for a commercial building permit per WCC 15.04.020, or when the scope and scale of proposed development is sufficiently minimal, the Director in their sole discretion may waive such review.

(3) Site plan approval is required for many other actions, including land use and building permits, to ensure the proposal meets development requirements and standards. Applicants shall consult the Whatcom County Planning and Development Services Administrative Manual to determine when site plans are required. Where a site plan is submitted in conjunction with an application for a permit, the site plan shall be incorporated into the project permit application, reviewed as part of that project permit, and subject to the appropriate approval time limit for the highest permit type. A stand-alone site plan approval requires an individual site plan approval application.

R. Perry Eskridge  
Government Affairs Dir.  
Building Industry Assoc. of Whatcom County  
1650 Baker Creek Place  
Bellingham, WA 98226  
360-671-4247  
govaffairs@biawc.com

