



## Memorandum

**TO:** Whatcom County Planning Commissioners

**FROM:** Samya Lutz, Planner

**THROUGH:** Mark Personius, Long Range Planning Manager

**DATE:** January 15, 2013

**SUBJECT:** Whatcom County Agricultural Strategic Plan Implementation (PLN2012-00007): Agricultural Parcel Reconfiguration

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The Planning Commission is scheduled to again discuss the draft ordinance addressing Agricultural Parcel Reconfiguration during the January 24<sup>th</sup> meeting. This discussion follows a public hearing held on October 25, and discussion held on November 15, August 9, and July 12, 2012.

The Ag Parcel Reconfiguration tool is under consideration as an optional tool for agricultural landowners, as recommended in the Agricultural Strategic Plan developed by the county Agricultural Advisory Committee and endorsed by the County Executive and Council.

This memo and the attached documents respond to Planning Commission discussion and direction received at the November 15<sup>th</sup> meeting. Staff received direction in three broad areas, and has responded as follows:

- **Re-organize the code** pertaining to the various agricultural division/modification types. Please refer to the document entitled "Ag Parcel Reconfiguration WCC 20.40 "Clean" Re-organization." Please focus on pages 2-7 in particular, which reflect a reorganization of 20.40.250-.256 in response to the Commission's request, including the addition of a table depicting allowed lot sizes, similar to that included with other zoning chapters.
- **Incorporate some sort of Transfer of Development Rights** option into the proposal. Staff recommends changing the Official Whatcom County Zoning & Comprehensive Plan Map to add "and the Agriculture zone" to the text under TDR Sending Areas in lower right area of map.
- **Other code text changes** shown highlighted based on the meeting discussion, including
  - clarification of the 1-to-3 acre allowance (.251 table, .253, .254),
  - clarification of allowance of homes on parcels submitted for a division or BLA for ag purposes only (.254(6)),
  - siting criteria changes (.650(2)(c)) to eliminate language "in the corners of the parent properties."

The highlighting included throughout the code amendments replaces the highlighting shown on the October 3<sup>rd</sup> draft, and depicts all changes made since that draft circulated prior to the public hearing.

Staff has attempted to continue showing track changes to the code, even with the reorganization that has taken place. There are places where moved text was not tracked as moved, and instead shown as deleted and added; staff has attempted to note these areas. Due to the prevalence of red-line in code sections 20.40.250-.256, a 'clean' version of chapter 20.40 is also included in your packet in order to see the effect of the reorganization without the red-line distractions.

Staff also discussed the TDR issue at length both internally, and again at the December Agricultural Advisory Committee meeting. There is a strong desire to incorporate an option to transfer density from some (presumably higher-quality) agriculture land to other (presumably lower-quality) agriculture land. There are challenges with doing this given the constraints of state law.

RCW 58.17.040 lists circumstances in which the provisions of the state subdivision code (58.17) do not apply, including (6), which says "A division made for the purpose of alteration by adjusting boundary lines, between platted or unplatted lots or both, which does not create any additional lot, tract, parcel, site, or division nor create any lot, tract, parcel, site, or division which contains insufficient area and dimension to meet minimum requirements for width and area for a building site;..." It is primarily under this provision (RCW 58.17.040) that the Parcel Reconfiguration project has moved forward, treating the Ag Parcel Reconfiguration option similar to a boundary line adjustment and not creating any *new* sites.

Pursuant to RCW 58.17.040, and the Whatcom County Hearing Examiner decision on the Administrative Appeal Application by Hecht (APL2007-00015) it has been determined that properties must be contiguous and share a common boundary to be eligible for a boundary line adjustment. Transfer of development rights for existing lots of record on properties that are not contiguous cannot be accomplished through a boundary line adjustment, parcel reconfiguration or a short subdivision as those actions may only be considered if there is *contiguous* property and ownership.

For these reasons, allowing Ag-to-Ag TDR *as a part of* the Parcel Reconfiguration code amendments is not possible. This is not to say that it can't be done. Perhaps after thorough examination of the state and local regulations, there would be a way in which to propose this type of TDR in conformance with the subdivision rules with adequate criteria and review. But this review would require a separate docketed item and review of available resources.

Does the Planning Commission want to table the Parcel Reconfiguration code amendments until a proposal is developed for modification of the TDR program for Ag-to-Ag transfers, or do you wish to move forward with the Ag Parcel Reconfiguration code amendments in the meantime?

Please note that other materials given to the Planning Commission may still be helpful references when considering the revised draft amendments, including the staff report distributed in October, and the draft application for Ag Parcel Reconfiguration distributed in November.

Feel free to contact me (x51072) or Amy Keenan (x50264) with any questions.

**Ag Parcel Reconfiguration WCC 20.40 “Clean” Re-organization  
AGRICULTURE (AG) DISTRICT**

**Re-organization of chapter ONLY – showing clean (non-tracked) code changes to-date  
for *selected* chapters (shown highlighted) which are the subject of the Ag Parcel  
Reconfiguration proposed changes.**

**Existing Ag District Sections:**

- 20.40.010 Purpose.**
- 20.40.050 Permitted uses.
- 20.40.100 Accessory uses.
- 20.40.130 Administrative approval uses.
- 20.40.150 Conditional uses.
- 20.40.200 Prohibited uses.
- 20.40.250 Minimum lot size and land subdivision.**
- 20.40.350 Building setbacks.**
- 20.40.450 Lot coverage.**
- 20.40.650 Development criteria.**
- 20.40.651 Landscaping.
- 20.40.652 Drainage.
- 20.40.662 Use of natural resources.

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**20.40.010 Purpose.**

The primary purposes of this district are to implement the agricultural designation of the Comprehensive Plan, established pursuant to RCW [36.70A.170](#), preserve, enhance and support the production of food and fiber in Whatcom County to maintain a sufficiently large agricultural land base to ensure a viable agriculture industry and to maintain the economic feasibility of supporting services. Whatcom County supports agricultural activities as the highest priority use in the Agriculture District, with all other uses being subordinate to agricultural activities. Whatcom County seeks to minimize conflict with surrounding zoning districts, in conjunction with Chapter [14.02](#) WCC, Right to Farm. In order to limit the further fragmentation of the commercial agricultural land base, the Agriculture District includes smaller areas of land with poorer quality soils or nonagricultural uses, which do not meet the definition of agriculture lands of long-term commercial significance. A secondary purpose of this district is to serve as a holding district when located within the urban growth area Comprehensive Plan designation to allow agricultural uses in the near term while protecting the area from suburban sprawl and preserving the potential for future urban development consistent with the protection of the resource land. (Ord. 2009-071 § 2 (Exh. B), 2009; Ord. 2005-079 § 1, 2005; Ord. 2001-020 § 1 (Exh. 1 § 1), 2001).

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**20.40.250 Division or Modification of Parcels**

It is the intent of this section to allow divisions which benefit the long-term viability of agriculture. This section describes the requirements for division or modification of parcels within the agricultural district that are consistent with the minimum lots size or would result in substandard parcels or make existing substandard parcels further substandard.

Requests for land division, boundary line adjustment, or agricultural parcel reconfiguration in the Agriculture District shall be made on forms provided by the department and will be reviewed administratively. All divisions must comply with the following provisions:

(1) **Agricultural Divisions.** All divisions of land in the Agriculture District shall proceed in accordance with the local and state subdivision laws.

(2) **Allowable Density.** No divisions, boundary line adjustments, or agricultural parcel reconfigurations shall result in an increase in allowable density; and

(3) **Additional Acreage.** Additional acreage gained through a boundary line adjustment or agricultural parcel reconfiguration shall not be considered in the total acreage calculations for determining density; and

(4) **Plat Restrictions.** The following plat restriction is required, prior to recording, on the nonresidential lot of all divisions of land provided for in WCC [20.40.254\(2\)](#):

No further division or residential structure shall be allowed on this parcel unless and until changes in the zoning of this property occur consistent with State and local laws which would result in additional development density, in which case this restriction shall be null and void and density and uses of the new zone shall apply to the property upon review by the Whatcom County zoning administrator.

(5) **Deed Restrictions.** Deed restrictions are required for all boundary line adjustments or agricultural parcel reconfigurations allowed under WCC [20.40.254 \(3\) and \(4\)](#).

- (a) The following language must be recorded separately and placed by reference of auditors file number on the deed, and placed on the tract map of the nonresidential portion of the adjusted parent parcels prior to recording:

The development density of the original parcel (parent parcel) remains with legal description \_\_\_\_\_. The \_\_\_\_\_ (# of acres) appended through boundary line adjustment [or agricultural parcel reconfiguration] to legal description \_\_\_\_\_ (receiving parcel) shall not be included in calculations to determine total development density for the receiving parcel.

- (b) The following deed restriction language must be recorded separately and placed by reference of auditors file number on the deed, and is required when there is no additional means to further subdivide the property due to the parcel sizes and density standards of this zone:

No further division or residential structure shall be allowed on this parcel unless and until changes in the zoning of this property occur consistent with State and local laws which would result in additional development density, in which case this restriction shall be null and void and density and uses of the new zone shall apply to the property upon review by the Whatcom County zoning administrator.

**20.40.251 Minimum Lot Size.**

The minimum lot size in the Agriculture District is 40 acres, except as provided for in WCC 20.40.253 and .254. The creation of a lot less than the minimum size is permitted only when the subject application meets the standards contained in WCC 20.40.253, .254 and .650 as applicable.

Parcel	Minimum Lot Size	Exceptions
Conventional Parcel	40 acres	Reconfiguring existing nonconforming parcels
<b>Farmstead Parcels Created through Agricultural Short Subdivision or Agricultural Boundary Line Adjustment</b>		
Farmstead Parcel – Parent Parcel <b>with</b> Existing Farmstead <b>with</b> public water	1 acres	Up to 3 acres pursuant to WCC 20.40.253 (1),(2) & (4)
Farmstead Parcel – Parcel <b>with</b> Existing Farmstead <b>without</b> public water	2 acres	Up to 3 acres pursuant to WCC 20.40.253 (1)-(4)
Farmstead Parcel – Parent Parcel <b>without</b> Existing Farmstead <b>with</b> public water	1 acre	Up to 2 acres pursuant to WCC 20.40.253 (1) & (2)
Farmstead Parcel – Parcel <b>without</b> Existing Farmstead <b>without</b> public water	2 acres	Up to 3 acres pursuant to WCC 20.40.253 (1),(2) & (3)

<b>Parcels Created Through Agricultural Parcel Reconfiguration</b>		
Reconfigured Parcel - reconfiguration <b>with</b> public water	1 acre	N/A
Reconfigured Parcel - reconfiguration <b>without</b> public water	1 acre	Up to 2 acres pursuant to WCC 20.40.253 (1),(2) & (3)
<b>Parcel Create for Agricultural Purposes Only</b>		
Created Parcel <b>with</b> deed restriction for no residential buildings	10 acres	N/A

**20.40.252 Minimum lot width and depth.**

(1) For parcels created consistent with the minimum lot size the: The minimum length to width ratio is five to one. The terms “length” and “width” refer to the average length and average width of the parcel.

(2) For lots created or rearranged pursuant to WCC 20.40.254, the following lot width and depth shall apply:

Minimum Width at Street Line	Minimum Width at Bldg. Line	Minimum Mean Depth
70' [A]	80'	100'

[A] Applies only to land divisions or parcel reconfigurations where the parcel(s) does not contain a farmstead homesite at the time of the application.

**20.40.253 Farmstead or Reconfigured Parcel Minimum Lot Size Exceptions**

The base maximum for the farmstead parcel shall be consistent with the minimum lots size in 20.40.251, except as follows:

- (1) A greater area is determined necessary by the health officer pursuant to Chapter 24.05 On-Site Sewage System Regulations;
- (2) A greater area is determined necessary by the responsible official to accommodate a driveway or other access necessary for the farmstead parcel;
- (3) For farmstead parcels without public water: Unless substantial evidence is provided by the responsible official indicating the location is not feasible, wells and wellhead protection zones shall also be located within farmstead parcel. Wells located outside of the farmstead parcel area shall be sited to minimize potential impacts on agricultural activities.
- (4) For farmstead parcels with existing farmstead homesites: There is an existing agricultural structure(s) within the farmstead parcel and any of the following criteria are met:
  - (a) The separation between the agricultural structure(s) and the primary residential structure is less than 150 feet; or
  - (b) Current use of the agricultural structure(s) is not related to an agricultural activity; or

- (c) There is a low potential for future use of the agricultural structure(s) to be associated with an agricultural activity due to physical condition or compatibility with agricultural practices; or
- (d) Water is not available for use at the agricultural structure(s).

#### **20.40.254 Separation of the Farmstead Parcel Criteria:**

(1) The criteria for approval for the farmstead parcel and remainder parcel created through Agricultural Boundary Line Adjustment, Agricultural Short Subdivision and Agricultural Parcel Reconfiguration shall be the following:

- (a) The area of the parcel containing the farmstead home site, whether the home exists or is to be added, is limited to the minimum amount required to encapsulate structures, parking areas, driveways, septic systems, wells, and landscaping required setbacks; and
- (b) The farmstead parcel shall be as stated in WCC 20.40.251, unless the existing residential structure(s) and/or well and septic constraints require a larger parcel, but shall not exceed the maximum lot size consistent with the exceptions in WCC 20.40.253; and
- (c) The farmstead parcel and farmstead home site meet the siting criteria contained in WCC 20.40.650; and
- (d) A remainder parcel shall be created equal to or greater than 10 nominal acres; and
- (e) The remainder parcel shall have no existing residential development and no development rights, and a condition containing the language as provided in WCC 20.40.250(4) or (5) shall be included on the short plat, boundary line adjustment, or agricultural parcel reconfiguration for the remainder parcel prior to final approval; and
- (f) The applicant and his or her heirs provide right of first purchase for a period of not less than 60 days through deed restriction to the original purchaser and subsequent purchasers of the remainder parcel for purchase of the farmstead parcel before they are offered on the open market; and
- (g) A right to farm disclosure statement as provided for in WCC 14.02.040(B) will be signed by the farmstead parcel owner and subsequent purchasers of the farmstead parcel, and recorded as per WCC 14.02.040(A)(1) and 14.02.050; and
- (h) All land division shall comply with the appropriate map and recording provisions of WCC Title 21; and
- (i) The overall submittal shall comply with WCC 20.40.250 et seq.

(2) **Agricultural Short Subdivisions.** Agricultural Short subdivisions for the purpose of reducing the acreage below the minimum lot size as provided by WCC 20.40.251 for a farmstead homesite shall comply with the following provisions:

- (a) The minimum parcel size is the area necessary to accommodate a house site which meets the applicable dimensional requirements of all applicable code and provides a remainder (appended) parcel equal to or greater than 10 nominal acres; and
- (b) The short subdivision application shall meet the size and performance standards of WCC 20.40.650.

(3) **Boundary Line Adjustments.** Boundary line adjustments for the purpose of reducing the acreage below the minimum lot size as provided by WCC 20.40.251 of an existing or proposed farmstead parcel if such boundary line adjustment complies with the following provisions:

- (a) Boundary line adjustments shall not make a lot substandard or further substandard, except as provided for in WCC [20.40.251](#).
- (b) The minimum parcel size is the area necessary to accommodate a house site which meets the applicable dimensional requirements of all applicable codes and provides a remainder (appended) parcel equal to or greater than 10 nominal acres; and
- (c) The farmstead parcel and boundary line adjustment application shall meet the size and performance standards of WCC 20.40.250 and .251, and the siting criteria of WCC 20.40.650.

(4) **Agricultural Parcel Reconfiguration:** Parcels are reconfigured and finalized according to the agricultural parcel reconfiguration process established in Chapter 21.03, Exempt Land Divisions, Boundary Line Adjustments, and Agricultural Parcel Reconfigurations, and when meeting the following performance standards:

- (a) Existing parcels to be reconfigured are:
  - (i) Smaller than the minimum lot size established for new lots in the Agriculture district. Parcels which meet the minimum lot size may be adjusted as a part of this process, provided the reconfiguration meets the provisions of (4)(b) below;
  - (ii) Determined to be legally created and buildable pursuant to WCC Title 21.01.180.
- (b) Proposed parcel(s) results in the following:
  - (i) No additional parcels; and
  - (ii) A remainder parcel shall be created equal to or greater than 10 nominal acres; and
  - (iii) The siting criteria of WCC 20.40.650 are met and development standards of WCC 20.40.252 et seq. are met; and
  - (iv) Reconfigured lots shall result in achieving two (2) or more of the identified agricultural-related purposes as follows:
    - (A) Expand the amount of commercially viable resource land under contiguous single ownership; and/or
    - (B) Protect and buffer designated resource lands; and/or
    - (C) Reduce impervious surfaces, such as by reducing the amount of road and utility construction required to serve reconfigured lots, or by reducing the amount impervious area for nonagricultural uses that could otherwise occur without parcel reconfiguration; and/or
    - (D) Reduce the total number of lots of record through voluntary consolidation; and/or
    - (E) Produce a farm management plan approved through the Whatcom Conservation District or WA Department of Agriculture that demonstrates increased viability of the agricultural operation through the agricultural parcel reconfiguration; and/or
    - (F) Enable improved floodplain management in cooperation with Whatcom County Public Works; and

(viii) Reconfigured lots shall not be further adjusted by boundary line adjustment without approval under this section.

- (c) The responsible official may impose conditions on the agricultural parcel reconfiguration to further the purposes of this section.
- (d) Parcel reconfigurations will be tracked by County Planning and Development Services so the procedure can be adaptively managed by review of all projects passed per this code in year 2017.

(5) **Public Facility.** The division is for the purpose of public facilities for health and safety use or expansion of such uses; provided, that:

- (a) The division or boundary line adjustment will not adversely affect the surrounding agricultural activities; and
- (b) The applicant has demonstrated to the administrator's satisfaction that the siting of the proposed use cannot be located in an adjacent zoning district or alternative site, if the area is intensively farmed.

(6) **Division or Boundary Line Adjustment for Agricultural Purposes Only.** Lots smaller than the minimum lot size of WCC 20.40.251 may be created through land division or re-arranged through a boundary line adjustment provided the following:

- (a) The parent parcel does not contain an existing residence, or said existing residence will remain on a parcel larger than 40 acres in size; and
- (b) The parcel created is greater than 10 acres or is appended to another parcel; and
- (c) There is a properly executed deed restriction which runs with the land on lots which have been created through the division or modified by the boundary line adjustment, except those lots at or over 40 acres in size that maintain an associated development density. Such deed restriction shall be substantially similar to that listed under 20.40.250(5), approved by the zoning administrator and recorded with the County Auditor specifying:
  - (i) All land divided or parcels adjusted are to be used exclusively for agricultural or flood management purposes and specifically not for a dwelling(s), and
  - (ii) All land divided or parcels adjusted shall have no residential density, and
  - (iii) For land divisions, the acreage of the newly created parcels shall not be included in calculations to determine total development density in the future, and
  - (iv) For boundary line adjustments, the acreage of the newly created parcel and appended portion shall not be included in calculations to determine total development density in the future.

#### **20.40.255 Consolidation of Adjacent Tracts.**

Consolidation of adjacent tracts in the same ownership shall be required in accordance with 20.83.070 in approval of any subdivision, short subdivision, agricultural parcel reconfiguration, or boundary line adjustment in the Agricultural District. The County may waive the permit fee for a boundary line adjustment or agricultural parcel reconfiguration where adjacent lots of record are not in the same ownership and are consolidated voluntarily for purposes of the agricultural parcel reconfiguration, or boundary line adjustment.

**20.40.256 Establishing Intent.**

The burden of establishing intent in and legal proceeding relating to a transaction accomplished or proposed under the authority of this section shall be upon the land owner or purchaser.

**20.40.350 Building setbacks.**

Building setbacks shall be administered pursuant to WCC [20.80.200](#) (Setback Requirements). Building setbacks for parcels of less than five nominal acres shall be administered pursuant to WCC 20.80.250.

**20.40.450 Lot coverage.**

No structure or combination of structures, including accessory buildings, shall occupy or cover more than 25 percent of the total area of the subject parcel. Exceptions to the maximum lot coverage may be allowed when any of the following can be demonstrated:

- (1) Proposed structures, in excess of the allowed maximum lot coverage, are located on lesser quality soils.
- (2) Proposed structures in excess of the allowed maximum lot coverage support additional agricultural production on parcels other than the subject parcel.
- (3) Expansion of facilities that were in operation prior to the adoption of the ordinance codified in this section if it can be demonstrated that substantial on-site investment has been made and location of additional structures off-site would cause an economic hardship to the farm operation.

**20.40.650 New or Modified Parcel Siting Criteria**

The location of vacant farmstead parcels or parcels arranged through agricultural parcel reconfiguration (which may or may not be vacant) shall be consistent with the following siting criteria and standards:

- (1) **Minimum Lot Size.** Parcels shall be consistent with WCC 20.40.251.
- (2) **Parcel Design.** Parcels shall be located and arranged to provide the maximum protection of agricultural land located both on and off-site. Parcel design and development shall be as follows:
  - (a) The residential parcels shall be configured so that property lines are immediately adjacent and physically contiguous to each other. A maximum of two development areas containing no more than four (4) lots may be allowed. The two development areas shall contain no more than a total of six lots, and shall be separated by a minimum of 500 feet to minimize the visibility of the future development and reinforce the purposes of the zone; provided that reductions in the separation standard by up to 10% are allowed if an applicant can demonstrate that the future development visibility from the public right of way or from neighboring properties is minimized and the purposes of the parcel reconfiguration in WCC 20.40.254(4)(b)(iv) are met; and
  - (b) Residential parcels shall be located as close as possible to existing public roads, or if none abut the property then to existing access roads. New road or driveway development shall be avoided to the maximum extent feasible; and
  - (c) Except for parcels that recognize existing farmsteads, residential parcels shall be located to the extent feasible to maximize the remainder lot configuration and farmable area; and

- (d) Except for reconfigured parcels that recognize existing farmsteads, each reconfigured parcel shall be limited to one single family residence and residential accessory structures; and
- (e) Residential building sites and access drive shall maintain sufficient separation from on-site and off-site agricultural resources and exterior property lines. The setback, lot coverage, and height standards for reconfigured lots shall be as established in WCC 20.40.350 to 450; and
- (f) Applicants shall verify that reconfigured parcels or farmstead parcels do not prohibit access to a point of withdrawal for any irrigation water rights certificates, claims, permits, or applications on the affected parcels; and
- (g) All development shall be consistent with WCC Chapter 16.16; and
- (h) The farmstead parcel or reconfigured parcels avoid prime soils to the extent feasible. Where the site is predominantly in prime soils and such cannot be avoided, the applicant shall demonstrate that:
  - (i) the parcels are sized to be as small as feasible pursuant to WCC 20.40.251; and
  - (ii) located to maximize the agricultural use of the remainder lot; and
  - (iii) achieve the most suitable locations for parcels in terms of minimizing roads, allowing for water availability, and septic suitability.

(3) Substitute Parcel Design Standards. Applicants proposing a farmstead parcel or agricultural parcel reconfiguration may propose a substitute performance standard in place of a listed standard in .650 (New or Modified Parcel Siting Criteria) provided that the applicant submits a written justification demonstrating the substitute standard better or equally meets the purposes of the zone in WCC 20.40.010 and the agricultural-related purposes described in WCC 20.40.254(4)(b)(iv); except under no condition shall more than the maximum of six (6) residential parcels with no more than four (4) lots in one development area be allowed. Such substitution shall be considered at the Administrator's discretion.

**EXHIBIT 1**

**PROPOSED CODE AMENDMENTS: PARCEL RECONFIGURATION**

**January 15, 2013**

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**Chapter 20.40  
AGRICULTURE (AG) DISTRICT**

Sections:

- [20.40.010](#) Purpose.
- [20.40.050](#) Permitted uses.
- [20.40.100](#) Accessory uses.
- [20.40.130](#) Administrative approval uses.
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- [20.40.651](#) Landscaping.
- [20.40.652](#) Drainage.
- [20.40.662](#) Use of natural resources.

**20.40.010 Purpose.**

The primary purposes of this district are to implement the agricultural designation of the Comprehensive Plan, established pursuant to RCW [36.70A.170](#), preserve, enhance and support the production of food and fiber in Whatcom County to maintain a sufficiently large agricultural land base to ensure a viable agriculture industry and to maintain the economic feasibility of supporting services. Whatcom County supports agricultural activities as the highest priority use in the Agriculture District, with all other uses being subordinate to agricultural activities. Whatcom County seeks to minimize conflict with surrounding zoning districts, in conjunction with Chapter [14.02](#) WCC, Right to Farm. In order to limit the further fragmentation of the commercial agricultural land base, the Agriculture District includes smaller areas of land with poorer quality soils or nonagricultural uses, which do not meet the definition of agriculture lands of long-term commercial significance. A secondary purpose of this district is to serve as a holding district when located within the urban growth area Comprehensive Plan designation to allow agricultural uses in the near term while protecting the area from suburban sprawl and preserving the potential for future urban development consistent with the protection of the resource land. (Ord. 2009-071 § 2 (Exh. B), 2009; Ord. 2005-079 § 1, 2005; Ord. 2001-020 § 1 (Exh. 1 § 1), 2001).

....

**20.40.250 Division or Modification of Parcels.**

It is the intent of this section to allow divisions which benefit the long-term viability of agriculture. This section describes the requirements for division or modification of parcels within the agricultural district that **are consistent with the minimum lot size or** would result in substandard parcels or make existing substandard parcels further substandard.

**Deleted:** Minimum lot size and land subdivision.

**Deleted:** Development

**Comment [slk11]:** Moved to .251

**Comment [slk12]:** Moved from .251

**Deleted:** Minimum lot size

**Deleted:** and land subdivision.

**Comment [slk13]:** Moved to .252

**Moved down [1]:** The minimum lot size in the Agriculture District is 40 acres, except as provided for in WCC [20.40.251](#) and [20.40.252](#).

**Deleted:** The minimum length to width ration is five to one.

**Moved down [2]:** The terms "length" and "width" refer to the average length and average width of the parcel.¶

**Deleted:** (1)

**Deleted:** (2) All divisions of land in the Agriculture District shall proceed in accordance with the local and state subdivision laws.¶

(3) Boundary line adjustments shall not make a lot substandard or further substandard, except as provided for in WCC [20.40.251](#) and [20.40.252](#).¶  
.251

Requests for land division, boundary line adjustment, or agricultural parcel reconfiguration in the Agriculture District shall be made on forms provided by the department and will be reviewed administratively. All divisions must comply with the following provisions:

(1) **Agricultural Divisions.** All divisions of land in the Agriculture District shall proceed in accordance with the local and state subdivision laws.

(2) **Allowable Density.** No divisions, boundary line adjustments, or agricultural parcel reconfigurations shall result in an increase in allowable density; and

(3) **Additional Acreage.** Additional acreage gained through a boundary line adjustment or agricultural parcel reconfiguration shall not be considered in the total acreage calculations for determining density; and

(4) **Plat Restrictions.** The following plat restriction is required, prior to recording, on the nonresidential lot of all divisions of land provided for in WCC 20.40.254(2):

No further division or residential structure shall be allowed on this parcel unless and until changes in the zoning of this property occur consistent with State and local laws which would result in additional development density, in which case this restriction shall be null and void and density and uses of the new zone shall apply to the property upon review by the Whatcom County zoning administrator.

(5) **Deed Restrictions.** Deed restrictions are required for all boundary line adjustments or agricultural parcel reconfigurations allowed under WCC 20.40.254(3) and (4).

(a) The following language must be recorded separately and placed by reference of auditors file number on the deed, and placed on the tract map of the nonresidential portion of the adjusted parent parcels prior to recording:

The development density of the original parcel (parent parcel) remains with legal description \_\_\_\_\_. The \_\_\_\_\_ (# of acres) appended through boundary line adjustment [or agricultural parcel reconfiguration] to legal description \_\_\_\_\_ (receiving parcel) shall not be included in calculations to determine total development density for the receiving parcel.

(b) The following deed restriction language must be recorded separately and placed by reference of auditors file number on the deed, and is required when there is no additional means to further subdivide the property due to the parcel sizes and density standards of this zone:

No further division or residential structure shall be allowed on this parcel unless and until changes in the zoning of this property occur consistent with State and local laws which would result in additional development density, in which case this restriction shall be null and void and density and uses of the new zone shall apply to the property upon review by the Whatcom County zoning administrator.

**20.40.251 Minimum Lot Size.**

The minimum lot size in the Agriculture District is 40 acres, except as provided for in WCC 20.40.253 and 20.40.254. The creation of a lot less than the minimum size is permitted only when the subject application meets the standards contained in WCC.20.40.253, .254, and .650, as applicable.

Deleted: or

Deleted: An additional application, deemed sufficient to initiate subdivision or boundary line adjustment review by planning and development services, must be submitted within 24 months of the administrative approval granted pursuant to this section.

Comment [slk14]: Moved from above - old 20.40.250(2).

Deleted: or

Deleted: 2

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Deleted: until and

Comment [slk15]: Changed from 'of' to 'by' based on 11/15/12 discussion.

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Deleted: 20.40.252

Deleted: .252 Maximum Lot Size Exceptions. The inclusion of existing agricultural structure(s) within the farmstead home site parcel shall be allowed if the farmstead home site parcel does not exceed three acres, and if any of the following criteria are met:

Deleted: (a)

Comment [slk16]: Changed from 'of' to 'by' based on 11/15/12 discussion.

Comment [slk17]: The table that follows & the highlighted areas under .253 below were added based on 11/15/12 PC discussion.

Moved (insertion) [1]

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Comment [slk18]: Moved from .252(1)

Parcel	Minimum Lot Size	Exceptions
Conventional Parcel	40 acres	Reconfiguring existing nonconforming parcels
<b>Farmstead Parcels Created through Agricultural Short Subdivision or Agricultural Boundary Line Adjustment</b>		
Farmstead Parcel – Parent Parcel <b>with</b> Existing Farmstead <b>with</b> public water	1 acres	Up to 3 acres pursuant to WCC 20.40.253 (1),(2) & (4)
Farmstead Parcel – Parcel <b>with</b> Existing Farmstead <b>without</b> public water	2 acres	Up to 3 acres pursuant to WCC 20.40.253 (1)-(4)
Farmstead Parcel – Parent Parcel <b>without</b> Existing Farmstead <b>with</b> public water	1 acre	Up to 2 acres pursuant to WCC 20.40.253 (1) & (2)
Farmstead Parcel – Parcel <b>without</b> Existing Farmstead <b>without</b> public water	2 acres	Up to 3 acres pursuant to WCC 20.40.253 (1),(2) & (3)
<b>Parcels Created through Agricultural Parcel Reconfiguration</b>		
Reconfigured Parcel - reconfiguration <b>with</b> public water	1 acre	N/A
Reconfigured Parcel - reconfiguration <b>without</b> public water	1 acre	Up to 2 acres pursuant to WCC 20.40.253 (1),(2) & (3)
<b>Parcels Created for Agricultural Purposes Only</b>		
Created Parcel <b>with</b> deed restriction for no residential buildings	10 acres	N/A

**20.40.252 Minimum lot width and depth.**

(1) For parcels created consistent with the minimum lot size: The minimum length to width ratio is five to one. The terms "length" and "width" refer to the average length and average width of the parcel.

(2) For lots created or rearranged pursuant to WCC 20.40.254, the following lot width and depth shall apply:

Minimum Width at Street Line	Minimum Width at Bldg. Line	Minimum Mean Depth
70' [A]	80'	100'

[A] Applies only to land divisions or parcel reconfigurations where the parcel(s) does not contain a farmstead homesite at the time of the application.

Comment [siki9]: Moved from .250(1)(a)

Moved (insertion) [2]

**20.40.253 Farmstead or Reconfigured Parcel Minimum Lot Size Exceptions**

The base maximum for the farmstead parcel shall be consistent with the minimum lots size in 20.40.251, except as follows:

- (1) A greater area is determined necessary by the health officer pursuant to Chapter 24.05 On-Site Sewage System Regulations;
- (2) A greater area is determined necessary by the responsible official to accommodate a driveway or other access necessary for the farmstead parcel;
- (3) For farmstead parcels without public water: Unless substantial evidence is provided by the responsible official indicating the location is not feasible, wells and wellhead protection zones shall also be located within farmstead parcel. Wells located outside of the farmstead parcel area shall be sited to minimize potential impacts on agricultural activities.
- (4) For farmstead parcels with existing farmstead homesites: There is an existing agricultural structure(s) within the farmstead parcel and any of the following criteria are met:

- (a) The separation between the agricultural structure(s) and the primary residential structure is less than 150 feet; or
- (b) Current use of the agricultural structure(s) is not related to an agricultural activity; or
- (c) There is a low potential for future use of the agricultural structure(s) to be associated with an agricultural activity due to physical condition or compatibility with agricultural practices; or
- (d) Water is not available for use at the agricultural structure(s).

Comment [slik110]: Moved from .252

Comment [slik111]: Moved from .252 (was (2)(b)(iv) in last draft)

**20.40.254 Separation of the Farmstead Parcel Criteria:**

(1) The criteria for approval for the farmstead parcel and remainder parcel created through Agricultural Boundary Line Adjustment, Agricultural Short Subdivision and Agricultural Parcel Reconfiguration shall be the following:

- (a) The area of the parcel containing the farmstead home site, whether the home exists or is to be added, is limited to the minimum amount required to encapsulate structures, parking areas, driveways, septic systems, wells, and landscaping required setbacks; and
- (b) The farmstead parcel shall be as stated in WCC 20.40.251, unless the existing residential structure(s) and/or well and septic constraints require a larger parcel, but shall not exceed the maximum lot size consistent with the exceptions in 20.40.253; and
- (c) The farmstead parcel and farmstead home site meet the siting criteria contained in WCC 20.40.650; and
- (d) A remainder parcel shall be created equal to or greater than 10 nominal acres; and
- (e) The remainder parcel shall have no existing residential development and no development rights, and a condition containing the language as provided in WCC 20.40.250(4) or (5), shall be included on the short plat for the remainder parcel prior to final approval; and
- (f) The applicant and his or her heirs provide right of first purchase for a period of not less than 60 days through deed restriction to the original purchaser and subsequent purchasers of the remainder parcel for purchase of the farmstead parcel before they are offered on the open market; and

Deleted: (1)

Deleted: Home Site

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Comment [slik112]: Based on 11/15/12 discussion: reverted to original language from code & removed prior-proposed changes.

Deleted: less than one acre

Deleted: three acres;

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Deleted: (3)

Deleted: d

Deleted: home site

(g) A right to farm disclosure statement as provided for in WCC 14.02.040(B) will be signed by the farmstead parcel owner and subsequent purchasers of the farmstead parcel, and recorded as per WCC 14.02.040(A)(1) and 14.02.050; and

Deleted: e

Deleted: home site

Deleted: home site

(h) All land division shall comply with the appropriate map and recording provisions of WCC Title 21; and

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(i) The overall submittal shall comply with WCC 20.40.250 et seq.

Deleted: g

**(2) Agricultural Short Subdivisions.** Agricultural short subdivisions for the purpose of reducing the acreage below the minimum lot size as provided by WCC 20.40.251 for a farmstead homesite shall comply with the following provisions:

Deleted: (2)

(a) The minimum parcel size is the area necessary to accommodate a house site which meets the applicable dimensional requirements of all applicable code and provides a remainder (appended) parcel equal to or greater than 10 nominal acres; and

Comment [slk113]: Repeated from existing code .252(2)(a)

Deleted: 1

Deleted: (3)

Deleted: home site

(b) The short subdivision application shall meet the size and performance standards of WCC 20.40.650.

Comment [slk114]: Moved from old 20.40.250(3).

**(3) Boundary Line Adjustments.** Boundary line adjustments for the purpose of reducing the acreage below the minimum lot size as provided by WCC 20.40.251 of an existing or proposed farmstead parcel if such boundary line adjustment complies with the following provisions:

Deleted: b

Deleted: home site

Deleted: less

(a) Boundary line adjustments shall not make a lot substandard or further substandard, except as provided for in WCC 20.40.251 and 20.40.252.

Deleted: one acre, unless the site, existing structure and/or well and septic constraints require a larger parcel, but shall not exceed three acres; and

(b) The minimum parcel size is the area necessary to accommodate a house site which meets the applicable dimensional requirements of all applicable codes and provides a remainder (appended) parcel equal to or greater than 10 nominal acres; and

Deleted: (c) The appended parcel shall have no development rights and a condition containing the language as provided in WCC 20.40.251(4) shall be included on the deed for the appended parcel prior to final approval; and¶

(c) The farmstead parcel and boundary line adjustment application shall meet the size and performance standards of WCC 20.40.250 and 251, and the siting criteria of WCC 20.40.650.

(d) The applicant and his or her heirs provide right of first purchase for a period of not less than 60 days through deed restriction to the original purchaser and subsequent purchasers of the remainder parcel for purchase of the farmstead home site parcel before they are offered on the open market; and¶

**(4) Agricultural Parcel Reconfiguration:** Parcels are reconfigured and finalized according to the agricultural parcel reconfiguration process established in Chapter 21.03, Exempt Land Divisions, Boundary Line Adjustments, and Agricultural Parcel Reconfigurations, and when meeting the following performance standards:

(a) Existing parcels to be reconfigured are:

(i) Smaller than the minimum lot size established for new lots in the Agriculture district. Parcels which meet the minimum lot size may be adjusted as a part of this process, provided the reconfiguration meets the provisions of (4)(b) below;

(ii) Determined to be legally created and buildable pursuant to WCC Title 21.01.180.

(b) Proposed parcel(s) results in the following:

(i) No additional parcels; and

(ii) A remainder parcel shall be created equal to or greater than 10 nominal acres; and

(iii) The siting criteria of WCC 20.40.650 are met and development standards of WCC 20.40.252 et seq. are met; and

(e) A right to farm disclosure statement as provided for in WCC 14.02.040(B) will be signed by the farmstead home site owner and subsequent purchasers of the farmstead home site parcel, and recorded as per WCC 14.02.040(A)(1) and 14.02.050; and¶

(f) All land division shall comply with the appropriate map and recording provisions of WCC Title 21; and¶

(4)

(iv) Reconfigured lots shall result in achieving two (2) or more of the identified agricultural-related purposes as follows:

- (A) Expand the amount of commercially viable resource land under contiguous single ownership; and/or
- (B) Protect and buffer designated resource lands; and/or
- (C) Reduce impervious surfaces, such as by reducing the amount of road and utility construction required to serve reconfigured lots, or by reducing the amount impervious area for nonagricultural uses that could otherwise occur without parcel reconfiguration; and/or
- (D) Reduce the total number of lots of record through voluntary consolidation; and/or
- (E) Produce a farm management plan approved through the Whatcom Conservation District or WA Department of Agriculture that demonstrates increased viability of the agricultural operation through the agricultural parcel reconfiguration; and/or
- (F) Enable improved floodplain management in cooperation with Whatcom County Public Works; and

(viii) Reconfigured lots shall not be further adjusted by boundary line adjustment without approval under this section.

(c) The responsible official may impose conditions on the agricultural parcel reconfiguration to further the purposes of this section.

(d) Parcel reconfigurations will be tracked by County Planning and Development Services so the procedure can be adaptively managed by review of all projects passed per this code in year 2017.

(5) Public Facility. The division is for the purpose of public facilities for health and safety use or expansion of such uses; provided, that:

- (a) The division or boundary line adjustment will not adversely affect the surrounding agricultural activities; and
- (b) The applicant has demonstrated to the administrator's satisfaction that the siting of the proposed use cannot be located in an adjacent zoning district or alternative site, if the area is intensively farmed.

(6) Division or Boundary Line Adjustment for Agricultural Purposes Only. Lots smaller than the minimum lot size of WCC 20.40.251 may be created through land division or re-arranged through a boundary line adjustment provided the following:

- (a) The parent parcel does not contain an existing residence, or said existing residence will remain on a parcel larger than 40 acres in size; and
- (b) The parcel created is greater than 10 acres or is appended to another parcel; and
- (c) There is a properly executed deed restriction which runs with the land on lots which have been created through the division or modified by the boundary line adjustment, except those lots at or over 40 acres in size that maintain an associated development density. Such deed restriction shall be substantially similar to that listed under 20.40.250(5), approved by the zoning administrator and recorded with the County Auditor specifying:

Deleted: pursuant to WCC 20.40.251

Comment [slk115]: Removed based on 11/15/12 discussion: "Modification". Highlighted changes in rest of (6) also based on 11/15 PC discussion and related consistency.

Deleted: .253

(i) All land divided or parcels adjusted are to be used exclusively for agricultural or flood management purposes and specifically not for a dwelling(s), and

(ii) All land divided or parcels adjusted shall have no residential density, and

(iii) For land divisions, the acreage of the newly created parcels shall not be included in calculations to determine total development density in the future, and

(iv) For boundary line adjustments, the acreage of the newly created parcel and appended portion shall not be included in calculations to determine total development density in the future.

**20.40.255 Consolidation of Adjacent Tracts.**

Consolidation of adjacent tracts in the same ownership shall be required in accordance with 20.83.070 in approval of any subdivision, short subdivision, agricultural parcel reconfiguration, or boundary line adjustment in the Agricultural District. The County may waive the permit fee for a boundary line adjustment or agricultural parcel reconfiguration where adjacent lots of record are not in the same ownership and are consolidated voluntarily for purposes of the agricultural parcel reconfiguration, or boundary line adjustment.

**20.40.256 Establishing Intent.**

The burden of establishing intent in and legal proceeding relating to a transaction accomplished or proposed under the authority of this section shall be upon the land owner or purchaser.

**20.40.350 Building setbacks.**

Building setbacks shall be administered pursuant to WCC 20.80.200 (Setback Requirements). Building setbacks for parcels of less than five nominal acres shall be administered pursuant to WCC 20.80.250.

**20.40.450 Lot coverage.**

No structure or combination of structures, including accessory buildings, shall occupy or cover more than 25 percent of the total area of the subject parcel. Exceptions to the maximum lot coverage may be allowed when any of the following can be demonstrated:

- (1) Proposed structures, in excess of the allowed maximum lot coverage, are located on lesser quality soils.
- (2) Proposed structures in excess of the allowed maximum lot coverage support additional agricultural production on parcels other than the subject parcel.
- (3) Expansion of facilities that were in operation prior to the adoption of the ordinance codified in this section if it can be demonstrated that substantial on-site investment has been made and location of additional structures off-site would cause an economic hardship to the farm operation.

**20.40.650 New or Modified Parcel Siting Criteria**

The location of vacant farmstead parcels or parcels arranged through agricultural parcel reconfiguration (which may or may not be vacant) shall be consistent with the following siting criteria and standards:

(1) Minimum Lot Size. Parcels shall be no less than 1 acre and no greater than 3 acres pursuant to WCC 20.40.252(2).

(2) Parcel Design. Parcels shall be located and arranged to provide the maximum protection of agricultural land located both on and off-site. Parcel design and development shall be as follows:

Deleted: .254

Deleted: 282(3).

Deleted: Development

Comment [slk116]: Added based on 11/15 PC discussion

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(a) The residential parcels shall be configured so that property lines are immediately adjacent and physically contiguous to each other. A maximum of two development areas containing no more than four (4) lots may be allowed. The two development areas shall contain no more than a total of six lots, and shall be separated by a minimum of 500 feet to minimize the visibility of the future development and reinforce the purposes of the zone; provided that reductions in the separation standard by up to 10% are allowed if an applicant can demonstrate that the future development visibility from the public right of way or from neighboring properties is minimized and the purposes of the parcel reconfiguration in Section 252(4)(b) are met; and

(b) Residential parcels shall be located as close as possible to existing public roads, or if none about the property then to existing access roads. New road or driveway development shall be avoided to the maximum extent feasible; and

(c) Except for parcels that recognize existing farmsteads, residential parcels shall be located to the extent feasible to maximize the remainder lot configuration and farmable area; and

(d) Except for reconfigured parcels that recognize existing farmsteads, each reconfigured parcel shall be limited to one single family residence and residential accessory structures; and

(e) Residential building sites and access drive shall maintain sufficient separation from on-site and off-site agricultural resources and exterior property lines. The setback, lot coverage, and height standards for reconfigured lots shall be as established in WCC 20.40.350 to 450; and

(f) Applicants shall verify that reconfigured parcels or farmstead parcels do not prohibit access to a point of withdrawal for any irrigation water rights certificates, claims, permits, or applications on the affected parcels; and

(g) All development shall be consistent with WCC Chapter 16.16; and

(h) The farmstead parcel or reconfigured parcels avoid prime soils to the extent feasible. Where the site is predominantly in prime soils and such cannot be avoided, the applicant shall demonstrate that:

(i) the parcels are sized to be as small as feasible pursuant to WCC 20.40.252(2); and

(ii) located to maximize the agricultural use of the remainder lot; and

(iii) achieve the most suitable locations for parcels in terms of minimizing roads, allowing for water availability, and septic suitability.

(3) Substitute Parcel Design Standards. Applicants proposing a farmstead parcel or agricultural parcel reconfiguration may propose a substitute performance standard in place of a listed standard in .650 (New or Modified Parcel Siting Criteria) provided that the applicant submits a written justification demonstrating the substitute standard better or equally meets the purposes of the zone in WCC 20.40.010 and the agricultural-related purposes described in WCC 20.40.252(4)(b)(iv); except under no condition shall more than the maximum of six (6) residential parcels with no more than four (4) lots in one development area be allowed. Such substitution shall be considered at the Administrator's discretion.

**Comment [slik117]:** Removed based on 11/15/12 discussion: "in the corners of the parent properties"

**Comment [slik118]:** Removed based on 11/15/12 discussion: "avoid critical areas and their buffers"

**CHAPTER 20.80  
SUPPLEMENTARY REQUIREMENTS**

Sections:

- [20.80.210](#) Minimum setbacks.
- [20.80.230](#) Measurement of setbacks.
- [20.80.250](#) Special setbacks provisions by district.
- [20.80.252](#) Rural District.
- [20.80.255](#) Agriculture District.
- [20.80.258](#) All districts.

....

**20.80.210 Minimum setbacks.**

(5) Setbacks. For the purposes of this chapter, the road classification used to determine setback requirements shall be as set forth in this section. In the event a particular road is not listed in this section, the department of public works shall determine the classification, which classification shall be based on the Whatcom County Development Standards or such other local, state or federal roadway standards as the department of public works deems appropriate.

(a) Setback Requirements of All Districts.

(i) No manure lagoon or other open pit storage shall be located closer than 150 feet from any property line, or in a manner which creates any likelihood of ground water pollution or other health hazard.

(ii) All manure storage shall be protected from a 25-year flood and shall be located 50 feet from irrigation ditches and waterways, 50 feet from the ordinary high water line of any lake or waterway; provided, that best management practices as determined by the Whatcom County Conservation District are in place. If the best management practices are not in place, 300 feet shall be substituted for 50 feet.

(iii) In all districts where a single-family residence is a primary permitted use, a building permit may be issued for the construction of a replacement dwelling on the same lot; provided, that the owner agrees by filing a statement with the building official that the old dwelling will be demolished, removed or converted to another permitted use upon completion of the new dwelling.

(iv) A 10-foot setback from the international border between Canada and the United States shall be maintained as an open space vista. The 10-foot setback area may be used for landscaping, agriculture, and natural vegetation. Structures may only be built within the 10-foot setback area after approval from the International Boundary Commission.

(b) Setbacks Table.

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Resource Lands Setbacks							
Agricultural (AG)							
Road Type						Other	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
50'	50'	50'	50'	50'	50'	20'	20'
<p>1. The 50-foot front yard setback requirement for new buildings or additions may be waived if the zoning administrator finds the new building or addition is located along the same building line(s) of existing structures and will result in no additional encroachment and the public interest, safety and health are protected; provided, that for a new building the applicant shall also demonstrate that the proposed location is necessary for the economic viability and the continued operation of the agricultural use.</p> <p>2. The minimum separation between new residences not located on the same property and farm uses such as barns, pens, milking sheds, or areas used to contain, house or feed animals or store manure or feed shall be 300 feet. New farm uses such as barns, pens, milking sheds, or areas used to contain, house or feed animals or store manure or feed shall be situated at least 150 feet from existing residences not located on the same property. Expansion of existing facilities within the 150-foot buffer, providing such expansion is not closer to a neighbor's residence, and pastures are excluded from this section's requirements.</p> <p>3. Parcels of less than five nominal acres shall have the following minimum setbacks:</p> <p>Front yards:</p> <ul style="list-style-type: none"> <li>– Primary arterials and secondary arterials: 45 feet.</li> <li>– Collector arterials: 35 feet.</li> <li>– Neighborhood collectors, local access streets: 25 feet.</li> <li>– Minor access streets: 20 feet.</li> </ul> <p><u>Minimum front yard requirements can be reduced by the zoning administrator for agricultural parcel reconfigurations, boundary line adjustments, or farmstead parcels established through WCC 20.40.252 if the proposed placement of the structures will result in a better fit with critical areas or prime soils and goes through the approval process in WCC 21.03, but in no case shall be less than 20 feet.</u></p> <p>Side yards: minimum side yard setbacks shall be five feet. <u>For agricultural parcel reconfigurations, boundary line</u></p>							

Comment [s1k119]: Highlighted changes to this section discussed at 11/15 PC meeting.

Deleted: applicant demonstrates better

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adjustments, or farmstead parcels established through WCC 20.40.252, the exterior side yard and exterior rear yard requirements of habitable structures shall be 30 feet.

Rear yards: minimum rear yard setbacks shall be five feet.

4. A 10-foot setback from the international border between Canada and the United States shall be maintained as an open space vista. The 10-foot setback area may be used for landscaping, agriculture, and natural vegetation. Structures may only be built within the 10-foot setback area after approval from the International Boundary Commission.

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#### **20.80.255 Agriculture District.**

(1) The 50-foot front yard setback requirement for new buildings or additions may be waived if the zoning administrator finds the new building or addition is located along the same building line(s) of existing structures and will result in no additional encroachment, the public interest, safety and health are protected; provided, that for a new building the applicant shall also demonstrate that the proposed location is necessary for the economic viability and the continued operation of the agricultural use.

(2) The minimum separation between new residences not located on the same property and farm uses such as barns, pens, milking sheds, or areas used to contain, house or feed animals or store manure or feed, shall be 300 feet. New farm uses such as barns, pens, milking sheds, or areas used to contain, house or feed animals or store manure or feed, shall be situated at least 150 feet from existing residences not located on the same property. Expansion of existing facilities within the 150-foot buffer, providing such expansion is not closer to a neighbor's residence, and pastures are excluded from this section's requirements.

(3) Parcels of less than five nominal acres shall have the following minimum setbacks:

Front Yards:

- Primary arterials and secondary arterials: 45 feet.
- Collector arterials: 35 feet.
- Neighborhood collectors, local access streets: 25 feet.
- Minor access streets: 20 feet.

Minimum front yard requirements can be reduced by the zoning administrator for agricultural parcel reconfigurations, boundary line adjustments, or farmstead parcels established through WCC 20.40.252 if the applicant demonstrates better placement of the structures in relation to critical areas or prime soils and goes through the approval process in WCC 21.03, but in no case shall be less than 20 feet.

Side Yards: Minimum side yard setbacks shall be five feet. For agricultural parcel reconfigurations, boundary line adjustments, or farmstead parcels established through WCC 20.40.252, the exterior side yard and exterior rear yard requirements of habitable structures shall be 30 feet.

Rear Yards: Minimum rear yard setbacks shall be five feet. (Ord. 2001-020 § 1 (Exh. 1 § 2), 2001; Ord. 99-080, 1999).

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**CHAPTER 20.83  
NONCONFORMING USES AND PARCELS**

**20.83.110 Reduction of area.**

The administrator shall not cause or increase the nonconformity of lots that are substandard as to lot area and/or lot width requirements through boundary line adjustments; provided, however, that the administrator or hearing examiner may approve boundary line adjustments required to satisfy an unidentified or disputed property line or to identify the same in accordance with RCW [58.04.007](#). In addition, boundary line adjustments or agricultural parcel reconfigurations in the Agricultural zone in conformance with WCC [20.40.251](#) and [20.40.252](#) shall be allowed. (Ord. 2009-031 § 1 (Exh. 1), 2009).

**CHAPTER 21.01  
GENERAL PROVISIONS**

Sections:

- [21.01.010](#) Title.
- [21.01.020](#) Purpose.
- [21.01.030](#) Authority.
- [21.01.040](#) Applicability and exemptions.
- [21.01.050](#) Interpretation, conflict and severability.
- [21.01.060](#) Enforcement and penalties.
- [21.01.070](#) Fees.
- [21.01.080](#) Administrative responsibilities.
- [21.01.090](#) Pre-application meeting.
- [21.01.100](#) Applications required.
- [21.01.105](#) Consolidated application process.
- [21.01.110](#) Complete application.
- [21.01.120](#) Time frames.
- [21.01.130](#) Underground utilities.
- [21.01.140](#) Regulatory authority for development standards.
- [21.01.150](#) *Repealed.*
- [21.01.160](#) City urban growth areas.
- [21.01.170](#) Hearing examiner consultation with technical advisory committee.

**21.01.010 Title.**

This title shall be known and may be cited as the Whatcom County land division regulations. (Ord. 2009-007 § 1; Ord. 2000-056 § 1).

**21.01.020 Purpose.**

The purpose of this title is:

- (1) To promote the public health, safety, and general welfare, and to protect the natural resources and the environment.
- (2) To provide for proper application of Chapter [58.17](#) RCW.
- (3) To facilitate efficient and cost-effective land division and to ensure orderly growth and development consistent with the Whatcom County Comprehensive Plan and the Whatcom County Code.
- (4) To establish an orderly transition from existing land uses to urban development patterns in designated urban growth areas. (Ord. 2009-007 § 1; Ord. 2000-056 § 1).

**21.01.030 Authority.**

This title is authorized pursuant to the authority delegated to Whatcom County under Chapter [58.17](#) RCW, Plats – Subdivisions – Dedications. (Ord. 2009-007 § 1; Ord. 2000-056 § 1).

**21.01.040 Applicability and exemptions.**

- (1) This title shall apply to property boundary actions as defined in this title.

(2) The subdivision and short subdivision provisions of this title shall not apply to:

....

(f) A division made for the purpose of alteration by adjusting boundary lines, between platted or unplatted lots or both, which does not create any additional lot, tract, parcel, site, or division nor create any lot, tract, parcel, site, or division which contains insufficient area and dimension to meet minimum requirements for width and area for a building site in accordance with the provisions of this title;

....

(l) Divisions of land into lots or tracts of less than forty acres but greater than ten acres within the area zoned and designated as Agriculture in the Comprehensive Plan for Whatcom County shall be exempt upon determination by Whatcom County Planning and Development Services that:

- (i) The purpose of the division is related to the full-time business of agriculture, and
- (ii) Each parcel created by the division will facilitate intensive agricultural operations, and
- (iii) No parcel created by the division is less than ten acres or 1/64 of a section, and
- (iv) The division either reduces or has no effect on available residential density and proceeds in accordance with 20.40.252(6).

....

#### **21.01.100 Applications required.**

(1) The applicant is encouraged to seek assistance from the subdivision administrator as to which approvals are required for a particular proposal. One or more of the following applications may be required for a particular proposal:

- (a) Exempt land division;
- (b) Boundary line (lot line) adjustment or agricultural parcel reconfiguration;
- (c) Short subdivision;
- (d) Preliminary long subdivision;
- (e) Final long subdivision;
- (f) Subdivision vacations and alterations;
- (g) Preliminary binding site plan;
- (h) General binding site plan;
- (i) Specific binding site plan;
- (j) Agricultural short plat. (Ord. 2009-007 § 1; Ord. 2000-056 § 1).

**CHAPTER 21.03**  
**EXEMPT LAND DIVISIONS, BOUNDARY LINE ADJUSTMENTS, AND AGRICULTURAL PARCEL**  
**RECONFIGURATIONS**

Deleted: AND

Sections:

- [21.03.010](#) Purpose.
- [21.03.020](#) *Repealed.*
- [21.03.030](#) Pre-approval.
- [21.03.040](#) Certificate of exemption.
- [21.03.045](#) Required disclosures.
- [21.03.050](#) Access on state highways.
- [21.03.060](#) Boundary line adjustments and Agricultural Parcel Reconfigurations.
- [21.03.070](#) Inactive applications.
- [21.03.080](#) Requirements for a fully completed exempt land division application.
- [21.03.085](#) Requirements for a fully completed boundary line adjustment application.
- [21.03.090](#) *Repealed.*

**21.03.010 Purpose.**

The purpose of this chapter is to establish or reference the procedure and requirements for the application, review and approval of exempt land divisions, pursuant to WCC [21.01.040](#), boundary line adjustments, and agricultural parcel reconfigurations. The procedure is intended to provide orderly and expeditious processing of such applications. (Ord. 2009-007 § 1; Ord. 2000-056 § 1).

Deleted: and

**21.03.020 Exemptions.**

*Repealed by Ord. 2009-007.* (Ord. 2004-031 § 1; Ord. 2003-058 Exh. A; Ord. 2003-033 Exh. A; Ord. 2001-027 § 1; Ord. 2000-056 § 1).

**21.03.030 Pre-approval.**

Applicants may request that their proposed exempt land division be reviewed by the subdivision administrator and pre-approved using forms supplied by the planning and development services department. (Ord. 2009-007 § 1; Ord. 2000-056 § 1).

**21.03.040 Certificate of exemption.**

(1) A certificate of exempt land division shall be obtained from the planning and development services department for exempt land divisions under WCC [21.01.040](#)(2)(b) and (k). A certificate of exempt land division shall consist of a suitably inscribed stamp on the instrument conveying land title and shall be certified prior to the recording of the instrument with the county auditor. County review and/or a county certificate of exemption stamp shall not be required for WCC [21.01.040](#)(2)(a) and (c) through (j).

(2) A certificate of exempt land division shall be approved, approved with conditions, or denied as follows:

- (a) Applications shall include information required by WCC [21.03.085](#).

(b) The exempt land division results in a lot(s) that qualifies as a valid land use pursuant to the Whatcom County Code, including but not limited to lot area, lot width, building setbacks, critical areas protection or shorelines protection.

(c) The exempt land division will not detrimentally affect access, access design, sight distance, grade, road geometry or other public safety and welfare concerns.

(3) An exempt land division is not considered approved until said instrument has been duly stamped as exempt and is filed for record concurrently with all applicable disclosures of WCC [21.03.045](#) within 12 months of pre-approval. Failure to record within 12 months of pre-approval means the exempt land division application is expired and must be resubmitted for review and approval. The time periods of this section do not include the time during which the exempt land division was not actually pursued due to the pendency of administrative appeals or legal actions or due to the need to obtain any other government permits and approvals for the development that authorize the development to proceed, including all reasonably related administrative or legal actions on any such permits or approvals. (Ord. 2009-007 § 1; Ord. 2004-031 § 1; Ord. 2002-017 § 1; Ord. 2000-056 § 1).

**21.03.045 Required disclosures.**

The following disclosures, if applicable, shall be recorded in the county auditor's office and shall be filed concurrently with all conveyances of property subject to this title:

- (1) Right to farm, right to practice forestry, or mineral resource disclosures.
- (2) Boundary discrepancies.
- (3) Protective covenants, conditions and restrictions.
- (4) Latecomers' agreements.
- (5) Significant pipeline in vicinity disclosure when the subject property is within 660 feet of a pipeline shown on Map 12, Chapter 5 of the Whatcom County Comprehensive Plan. (Ord. 2009-007 § 1; Ord. 2004-031 § 1; Ord. 2002-017 § 1).

**21.03.050 Access on state highways.**

For parcels that will access onto a state highway, the applicant shall provide evidence of an approved access from the State Department of Transportation prior to approval of the exempt land division. (Ord. 2009-007 § 1; Ord. 2000-056 § 1).

**21.03.060 Boundary line adjustments and Agricultural Parcel Reconfigurations.**

The purpose of this section is to provide procedures for the review and approval of adjustments or alterations to boundary lines of existing lots of record which does not create any additional lot, tract, parcel, site or division nor create any lot, tract, parcel, site or division which contains insufficient area and dimension to meet minimum requirements for width and area for a building site.

- (1) Procedures. Boundary line adjustments and agricultural parcel reconfigurations shall be approved, approved with conditions, or denied as follows:

(a) Applications shall include information required by WCC [21.03.085](#).

(b) Any adjustment of boundary lines must be approved by the subdivision administrator prior to the transfer of property ownership between adjacent lots.

(c) The subdivision administrator shall make a preliminary decision on boundary line [or agricultural parcel reconfiguration](#) applications within 45 days following submittal of a complete application or revision, unless the applicant consents to an extension of such time period.

(d) A title insurance certificate updated not more than 60 days prior to application, which includes all parcels within the adjustment, must be submitted to the subdivision administrator with boundary line adjustment [or agricultural parcel reconfiguration](#) applications.

(e) All persons having an ownership interest within the boundary line adjustment [or agricultural parcel reconfiguration](#) shall sign the final recording document in the presence of a notary public.

(2) Decision Criteria. In reviewing a proposed boundary line adjustment [or agricultural parcel reconfiguration](#), the subdivision administrator or hearing examiner shall use the following criteria for approval:

(a) The boundary line adjustment shall not result in the creation of an additional lot.

(b) With the exception of those boundary line adjustments [or lots within agricultural parcel reconfigurations that recognize an existing farmstead home site](#) located within the agricultural zone, the boundary line adjustment [or agricultural parcel reconfiguration](#) shall result in lots which contain sufficient area and dimensions to meet minimum requirements for width and area for a building site pursuant to this title.

(c) The boundary line adjustment [or agricultural parcel reconfiguration](#) shall be consistent with any restrictions, depictions or conditions regarding the overall area in a plat or short plat devoted to open space, environmental mitigation or conservation.

(d) The boundary line adjustment [or agricultural parcel reconfiguration](#) shall be consistent with any restrictions or conditions of approval for a recorded plat, short plat, zoning permit, or development permit.

(e) The boundary line adjustment [or agricultural parcel reconfiguration](#) shall not cause boundary lines to cross ~~on-site sewage disposal systems or their reserve areas, prevent suitable area for on-site sewage disposal systems, or prevent adequate access to water supplies unless suitable mitigation including, but not limited to, the granting of utility easements is provided to the satisfaction of Whatcom County; provided, however, in the agricultural zone only those lots with existing on-site sewage disposal systems or potable water supplies are subject to this provision.~~

(f) The boundary line adjustment [or agricultural parcel reconfiguration](#) will not create a new access which is unsafe or detrimental to the existing road system because of sight distance, grade, road

Deleted: on-site

geometry or other safety concerns, as specified in adopted Whatcom County road development standards.

(g) The boundary line adjustment or agricultural parcel reconfiguration on lots without an existing farmstead home site shall demonstrate adequate septic and potable water suitability. Applicants shall demonstrate adequate potable water availability per WCC 24.11. Applicants shall demonstrate septic suitability approval pursuant to WCC 24.05.

(3) Final Approval and Recording Required. To finalize an approved boundary line adjustment or agricultural parcel reconfiguration, the applicant must submit to the subdivision administrator within one year of preliminary approval final review documents meeting the requirements of approval.

(a) All persons having an ownership interest within the boundary line adjustment or agricultural parcel reconfiguration shall sign the final recording document in the presence of a notary public.

(b) Certified legal descriptions of the lots after the boundary line adjustment or agricultural parcel reconfiguration, together with conveyance document(s) and language clearly binding the property which is conveyed to the remainder portion of the property, shall be prepared by a title company or licensed surveyor for all lots affected by the boundary line adjustment or agricultural parcel reconfigurations.

(c) A title insurance certificate updated not more than 60 days prior to recording of the adjustment, which includes all parcels within the adjustment, submitted to the subdivision administrator with boundary line adjustment or agricultural parcel reconfiguration final review documents.

(d) A final boundary line or agricultural parcel reconfiguration map, prepared by a licensed surveyor, along with legal descriptions, shall be prepared and submitted for review and approval. Two map copies shall be provided for review demonstrating compliance with the preliminary boundary line adjustment or parcel reconfiguration approval.

(e) A boundary line adjustment or agricultural parcel reconfiguration is not considered approved until the conveyance documents have been duly stamped as exempt and is filed for record concurrently with all applicable disclosures of WCC 21.03.045 within 12 months of approval of final documents. Failure to record within 12 months of approval means the boundary line adjustment or agricultural parcel reconfiguration application is expired and must be resubmitted for review and approval. (Ord. 2009-030 § 1 (Exh. 1); Ord. 2009-007 § 1; Ord. 2000-056 § 1).

#### **21.03.070 Inactive applications.**

An applicant may place an exempt land division, boundary line adjustment, or agricultural parcel reconfiguration application, which has not yet received preliminary approval, on hold for a cumulative maximum of 180 days. This 180-day period shall not include time the applicant is performing studies required by the county when the study is provided within the time frame agreed to by the county and the applicant. Applications which fail to meet these time limits will be considered expired and void. The time periods of this

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chapter do not include the time during which the exempt land division was not actually pursued due to the pendency of administrative appeals or legal actions or due to the need to obtain any other government permits and approvals for the development that authorize the development to proceed, including all reasonably related administrative or legal actions on any such permits or approvals. (Ord. 2009-007 § 1; Ord. 2000-056 § 1).

**21.03.080 Requirements for a fully completed exempt land division application.**

The following, and any other information on a form prescribed by the subdivision administrator, is required for a complete application for exempt land divisions under WCC [21.01.040](#)(2)(b) and (k).

(1) Written Data and Fees.

- (a) Name, address and phone number of land owner, applicant, and contact person.
- (b) Intended uses.
- (c) A current title report or update of title report issued no more than 60 calendar days prior to application.
- (d) Assessor's parcel number (of the parent parcel).
- (e) Fees as specified in the Unified Fee Schedule.
- (f) Signature of all owners as shown on title report, and authorization for any agent to act on behalf of owners.

(2) Map Data.

- (a) Name of land owner.
- (b) Name of proposed land division (if an original drawing is prepared).
- (c) General layout of proposed land division.
- (d) Common language description of the general location of the land division.
- (e) Approximate location and names of existing roads identified as either public or private.
- (f) Vicinity map.
- (g) Common engineering map scale/north arrow/sheet numbers (on each sheet containing a map).
- (h) Section, township, range, and municipal and county lines in the vicinity.
- (i) General boundaries of the site with general dimensions shown.
- (j) Legal description of the land. (Ord. 2009-007 § 1; Ord. 2000-056 § 1).

**21.03.085 Requirements for a fully completed boundary line adjustment or agricultural parcel reconfiguration application.**

The following, and any other information on a form prescribed by the subdivision administrator, is required for a complete application.

(1) Written Data and Fees.

- (a) Name, address and phone number of land owner, applicant, and contact person.
- (b) Intended uses.
- (c) A current title report or update of title report issued no more than 60 calendar days prior to application.

- (d) Assessor's parcel numbers of existing parcels.
- (e) Fees as specified in the Unified Fee Schedule.
- (f) Signature of all owners as shown on title report, and authorization for any agent to act on behalf of owners.

(2) Map Data.

- (a) Names of land owners.
- (b) Name of proposed boundary adjustment.
- (c) Common language description of the general location of the land division.
- (d) Map at a common engineering scale of boundaries of existing parcels that are contributing to or receiving land from the proposed adjustment.
- (e) Approximate location and labeling of any disputed or undetermined property lines proposing to be resolved by the adjustment.
- (f) Clear depiction of property lines proposed for adjustment which identifies existing property lines and proposed property lines.
- (g) Legal description and area of original parcels.
- (h) Legal description and area of proposed adjusted parcels.
- (i) Approximate location and names of existing roads identified as either public or private.
- (j) Approximate location of existing buildings and existing on-site septic systems.
- (k) Approximate locations of existing utilities and infrastructure.
- (l) Vicinity map.
- (m) Common engineering map scale/north arrow/sheet numbers (on each sheet containing a map).
- (n) Section, township, range, and municipal and county lines in the vicinity.
- (o) General boundaries of the site with general dimensions shown. (Ord. 2009-007 § 1).

**21.03.090 Original drawing.**

*Repealed by Ord. 2009-007. (Ord. 2000-056 § 1).*

## CHAPTER 21.04 SHORT SUBDIVISIONS

### Sections:

- [21.04.010](#) Purpose.
- [21.04.031](#) Pre-application meeting.
- [21.04.032](#) Short subdivision application submittal.
- [21.04.033](#) Determination of completeness and vesting.
- [21.04.034](#) Application procedures.
- [21.04.035](#) Final short subdivision review process.
- [21.04.038](#) Applications subject to time limits.
- [21.04.040](#) Restriction of further division.
- [21.04.050](#) Development requirements.
- [21.04.060](#) Roads.
- [21.04.070](#) Public dedications.
- [21.04.080](#) Easements.
- [21.04.090](#) Water supply.
- [21.04.100](#) Sewage disposal.
- [21.04.110](#) Fire protection.
- [21.04.120](#) Short subdivision vacation and alteration.
- [21.04.130](#) Land survey.
- [21.04.140](#) Security.
- [21.04.150](#) Requirements for a fully completed application for short subdivisions.
- [21.04.160](#) Final review and submittal.
- [21.04.170](#) Disclosures and notes.
- [21.04.180](#) Agricultural short plat.

### **21.04.010 Purpose.**

The purpose of this chapter is to establish or reference the procedure and requirements for the application, review and approval of short subdivisions.

....

### **21.04.180 Agricultural short plat.**

The provisions of WCC [20.40.252](#) provide for the segregation of a farmstead parcel with an existing residence(s) from a remainder parcel used for farming in the Agriculture Zone. The remainder parcel is restricted to agricultural use only. Because no further residential development can occur on the remainder parcel and an existing residential structure is already on the farmstead parcel, many of the standard short plat requirements are unnecessary. Therefore, a shortened review process has been established.

Agricultural short plats that qualify under WCC [20.40.252](#) shall be subject to the following:

Deleted: (1)

Deleted: (1)

(1) Agricultural short plats [that recognize an existing farmstead homesite](#) shall be processed pursuant to all the requirements of this chapter except that the short plat will not be reviewed for compliance with:

(a) WCC [21.04.060](#) (Roads);

(b) WCC [21.04.090](#) (Water supply), when the remainder parcel will not require potable water;

(c) WCC [21.04.100](#) (Sewage disposal);

(d) WCC [21.04.130](#) (Land survey);

(e) Chapter [16.16](#) WCC (Critical Areas); and

(f) Shoreline master program.

(2) Any subsequent development must comply with all applicable codes.

(3) Survey Requirements – Partial. A survey, prepared by a professional land survey in accordance with WCC [21.09.010](#) and [21.09.020](#), which provides the location of at least two corners of the farmstead parcel shall be submitted. A survey is not required for the remainder parcel that cannot have further residential development.

## CHAPTER 20.97 DEFINITIONS

### Zoning Definitions

#### 20.97.132 Farmstead parcel.

The “farmstead parcel” includes that portion of the property containing an existing or planned farmstead home site. (Ord. 2005-073 § 1, 2005; Ord. 2001-020 § 1 (Exh. 1 § 3), 2001).

Deleted: primary and secondary agricultural structures and the

#### 20.97.133 Farmstead home site.

The “farmstead home site” includes that portion of the farmstead parcel used for residential buildings, uses accessory to residential buildings, drainfields, wells, wellhead protection area(s), established landscaped areas contiguous with the non-agricultural built area, and structures as allowed in WCC 20.40.252, (Ord. 2005-073 § 1, 2005).

Deleted: (a) through (d)

RECORD OF PROCEEDINGS OF THE  
**WHATCOM COUNTY PLANNING COMMISSION**

January 24, 2013

Regular Meeting

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1 **Call To Order:** The meeting was called to order, by Whatcom County Planning  
2 Commission Chair, Michelle Luke, in the Northwest Annex Conference Room at 6:30 p.m.

3  
4 **Roll Call**

5 Present: Michelle Luke, Ben Elenbaas, Rod Erickson, Gary Honcoop, David Onkels, Jeff  
6 Rainey, Mary Beth Teigrob  
7 Absent: Ken Bell, John Lesow

8  
9 **Staff Present:** Mark Personius, Samya Lutz, Amy Keenan, Becky Boxx

10  
11 **Department Update**

12  
13 Mark distributed a handout titled Non-Urban Population Growth Monitoring Report which is  
14 a requirement of the County Comprehensive Plan. There is no action required it only  
15 fulfills the Comprehensive Plan requirements and states the County is not having growth  
16 occur that is above the allocated amount.

17  
18 Update on the Growth Management Hearings Board decision regarding the Rural Element.  
19 Staff anticipates bringing a staff recommendation to the Commission on February 28<sup>th</sup> and  
20 will hold a public hearing on March 14<sup>th</sup>.

21  
22 The County Council appointed a new Commissioner who declined the appointment. The  
23 Council will appoint a new member at their January 29<sup>th</sup> meeting.

24  
25 **Open Session for Public Comment**

26  
27 There was no public comment.

28  
29 **Commissioner Comments**

30  
31 Commissioner Honcoop would like to see some of the previous minutes, of 2012, on the  
32 PDS website. Staff will put some of the minutes back on the site.

33  
34 He would also like to see the minutes of the Agricultural Advisory Committee updated.  
35 Staff will work on this issue.

36  
37 **Approval of Minutes** of January 10, 2013

38  
39 Becky made a correction to page 3, line 17 to read: Commissioner Honcoop asked ~~with~~  
40 which LAMIRDs are affected by the invalidity.

41  
42 Onkels moved to approve as amended. Rainey seconded. The motion carried.

43  
44 **Work Session**

45  
46 File #PLN2012-00007 - Agricultural Parcel Reconfiguration. Proposed amendments to  
47 portions of the Official Whatcom County Zoning (Title 20) and Subdivision (Title 21)  
48 Ordinances for categorical changes related to the Parcel Reconfiguration task as

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1 recommended in the Ag Strategic Plan File. Changes include: Change to Ag Farmstead  
2 Parcel creation, a new Ag Parcel Reconfiguration Tool, Ag Siting Criteria, and Procedurally  
3 treating Ag Parcel Reconfigurations similar to Boundary Line Adjustments.

4  
5 Samya and Amy gave a power point presentation which covered:  
6

- 7 • The history of the program to date.
  - 8 ○ Approximately a year ago a consultant was hired.
  - 9 ○ A project review team was formed and met numerous times.
  - 10 ○ A focus group, of professionals, met last year.
  - 11 ○ There was an open house in May 2012.
  - 12 ○ A workshop, specific to developing the code, was held in July 2012
  - 13 ○ The Planning Commission has held 3 work sessions and 1 public hearing.
  - 14 ○ The objective has remained the same with some new options that can be
  - 15 explored.
- 16 • Amy reviewed the goal of the program, which is to:
  - 17 ○ Allow farmstead separation prior to having a home built. This would be done for
  - 18 agricultural short subdivisions and for boundary line adjustments.
  - 19 ○ Staff is also looking at having the ability to create 1 to 3 acre lots, out of
  - 20 existing lots of record, on agricultural parcels, in a way that benefits on-going
  - 21 agriculture.
  - 22 ○ Added was an exemption for divisions for agricultural only purposes, which
  - 23 allows the division to be less than 40 acres.
- 24 • Based on Planning Commission comments:
  - 25 ○ Staff re-organized the code to make it easier to understand.
  - 26 ○ Staff clarified there will be no deed restriction on parcels that are greater than
  - 27 40 acres if the agriculture only exemption process is done.
  - 28 ○ Regarding siting criteria staff withdrew language stating development must
  - 29 occur in the corners of the properties per Planning Commission's request.
  - 30
  - 31
  - 32

33 Amy reviewed the new table staff created in 20.40.251. This table was created in order to  
34 make the code easier to understand.

35  
36 Samya stated, that regarding Ag to Ag Transfer of Development Rights (TDRs), the  
37 research staff has done indicates that they cannot be incorporated into this process as it  
38 is. The question asked of the Commission was do they want to A) Move Ag Parcel  
39 Reconfiguration forward with change to TDR sending area allowing addition of Ag zone. B)  
40 Table Ag Parcel Reconfiguration project until more substantive TDR changes can take  
41 place. C) Other options.

42  
43 The Commission asked for some clarification regarding the TDR program being  
44 incorporated. Staff stated that because of State laws incorporating them in the way the  
45 Commission wants, which is Ag to Ag, would be a substantive process and need to be  
46 docketed separately. If the TDR program was implemented and the Ag area was  
47 designated a sending area then it would be possible. Can Ag to Rural TDRs be done? Staff  
48 stated not as part of this parcel reconfiguration process , it is the same issue as Ag to Ag.

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1 Could the Ag zone receiving areas receive development rights from any sending areas or  
2 can it only be an Ag receiving area? Staff stated the current code doesn't address that.  
3 Most existing TDR programs address Ag to Urban so more research needs to be done on  
4 the issue. Water rights being given in exchange for development rights is an issue that  
5 can be explored.

6  
7 The Commission reviewed a letter from Jack Petree which stated that County is out of  
8 compliance with the GMA because the County has Ag land inside of UGAs without a TDR  
9 program. Staff stated Mr. Petree was incorrect in his statement because the County has  
10 Ag zoned land which is different from Ag designated GMA lands which is what Mr. Petree  
11 was referring to.

12  
13 Commissioner Luke asked if at the meeting with the focus group, last year, was any other  
14 method discussed for a farmer to use equity in his land besides the Ag Parcel  
15 Reconfiguration?

16  
17 Vickie Hawley, a member of the Agricultural Advisory Committee, stated that because of  
18 the changes in the banking regulations property is easier to loan against if it is separated  
19 off.

20  
21 Staff made the distinction that a separate tax parcel and a separate legal lot of record are  
22 two different things.

23  
24 Commissioner Rainey asked if any members of the Agricultural Advisory Committee would  
25 be interested in coming to one of the Planning Commission meetings to state their  
26 position on this issue. Vickie Hawley did not know the answer to that.

27  
28 **Commissioner Honcoop moved to recommend Option C which is to move ahead**  
29 **without the TDR program as part of the Ag Parcel Reconfiguration. Commissioner**  
30 **Elenbaas seconded.**

31  
32 Commissioner Erickson stated he is okay with the motion but he would still like to see  
33 work done on the TDR program and the issue of trading development rights for water  
34 rights.

35  
36 Staff stated the Agricultural Advisory Committee and staff, through a grant, continue  
37 working on the TDR issue.

38  
39 **The vote on the motion carried.**

40  
41 The Commission reviewed the staff proposals and took the following actions.

42  
43 20.97 Definitions

44  
45 Commissioner Honcoop stated the definitions were confusing and suggested wording to  
46 clarify. The Commission agreed to change the definitions to read:

47  
48 20.97.132 Farmstead parcel

RECORD OF PROCEEDINGS OF THE  
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January 24, 2013

Regular Meeting

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1 The "farmstead parcel" ~~includes that~~ is the legally subdivided portion of the ~~property~~  
 2 parent parcel containing an existing or planned farmstead home site.  
 3 20.97.133 Farmstead home site

4  
 5 The "farmstead home site" includes that portion of the ~~farmstead~~ parent parcel used for  
 6 existing or planned residential buildings, uses accessory to residential buildings,  
 7 drainfields, wells, wellhead protection area(s), established landscaped areas contiguous  
 8 with the non-agricultural built area, and structures as allowed in WCC 20.40.252.

9  
 10 Staff will review the new language to ensure it does not cause conflict in other areas of  
 11 the code.

12  
 13 20.40.250 Division or Modification of Parcels.

14  
 15 Commissioner Luke suggested adding language from page 18 of the *Situation Assessment*  
 16 *& Recommendations* as the current language does not make it clear what is trying to be  
 17 accomplished.

18  
 19 Staff stated this section does not just apply to Ag Parcel Reconfiguration so changing it is  
 20 not suggested. They suggested the language Commissioner Luke wishes to add would be  
 21 more appropriate as findings. Commissioner Luke agreed.

22  
 23 20.40.250(5) Deed Restrictions

24  
 25 Commissioner Honcoop asked for clarity on the language. How can there be surety that a  
 26 deed restriction is not required? The deed restriction is only attached when a 1 to 3 acre  
 27 lot, through a boundary line adjustment, is created. Under other corrections there are no  
 28 deed restrictions. Staff stated that is an issue with the non-conforming code. A lot cannot  
 29 be made more non-conforming.

30  
 31 20.40.251 Minimum Lot Size.

32  
 33 The Commission agreed to the following changes:

34

Parcel	Minimum Lot Size	Exceptions <u>Minimum Lot Size Exceptions</u>
Conventional Parcel	40 acres	Reconfiguring existing nonconforming parcels
Farmstead Parcel – Parent Parcel <b>with</b> Existing Farmstead <u>Home site</u> <b>with</b> public water	1 acres	Up to 3 acres pursuant to WCC 20.40.253 (1),(2) & (4)
Farmstead Parcel – Parcel <b>with</b> Existing Farmstead <u>Home site</u> <b>without</b> public water	2 acres	Up to 3 acres pursuant to WCC 20.40.253 (1)-(4)
Farmstead <u>Home site</u> Parcel – Parent Parcel <b>without</b>	1 acre	Up to 2 acres pursuant to WCC 20.40.253 (1) & (2)

RECORD OF PROCEEDINGS OF THE  
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Existing Farmstead <u>Home site</u> <b>with</b> public water		
Farmstead <u>Home site</u> parcel – Parcel <b>without</b> Existing Farmstead <b>without</b> public water	2 acres	Up to 3 acres pursuant to WCC 20.40.253 (1),(2) & (3)
Reconfigured Parcel - reconfiguration <b>with</b> public water	1 acre	N/A
Reconfigured Parcel - reconfiguration <b>without</b> public water	1 acre	Up to 2 acres pursuant to WCC 20.40.253 (1),(2) & (3)
Created Parcel <b>with</b> deed restriction for no residential buildings	10 acres	N/A

1  
2 20.40.253 (3) Farmstead or Reconfigured Parcel Minimum Lot Size Exceptions

3  
4 Commissioner Honcoop asked what *substantial* means. Who is providing the evidence?  
5 Who is making the decisions?

6  
7 Staff stated the decision maker would be the Health Department based on a well site  
8 inspection. Staff has debated how far they ask people to go when approving an ag  
9 boundary line adjustment, ag short plat, or ag parcel reconfiguration without an existing  
10 home site. It goes back to a well site inspection and review of septic. This is not without  
11 risk as water may not be attainable.

12  
13 **Commissioner Honcoop moved to strike the word substantial. Commissioner**  
14 **Elenbaas seconded. The motion failed.**

15  
16 20.40.254(1)(e) Separation of the Farmstead Parcel Criteria

17  
18 Commissioner Honcoop questioned how a new owner would know there are no building  
19 rights on the remainder parcel. Staff stated it is recorded on title so it should show up on  
20 a title report.

21  
22 20.40.254(4)(b)(iv)

23  
24 Commissioner Elenbaas questioned the word *shall*. What is the basis for making it a  
25 requirement? He also stated the bullet points (A) through (F) are not ag related purposes  
26 and will not help farmers. This may be an appropriate area to put in Commissioner Luke's  
27 suggested language for 20.40.250 from page 18 of the *Situation Assessment &*  
28 *Recommendation*.

29 Staff stated this language comes from the Ag Advisory Committee and sub-committees  
30 desire for long term viability of ag. This is the area to demonstrate how that is done. *Shall*  
31 is stated because it makes it very clear what the criteria is. The GMA makes it very clear.

32

RECORD OF PROCEEDINGS OF THE  
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6

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1 Commissioner Elenbaas questioned if any of the bulleted requirements were suggested by  
2 the farmers.

3  
4 Staff stated the Ag Advisory Committee discussed them but didn't know who proposed the  
5 language.

6  
7 Commissioner Honcoop suggested 20.40.254(4)(b)(iv) be reworded to read: ~~Reconfigured~~  
8 ~~lots~~ The reconfiguration shall result in achieving two (2) or more of the identified  
9 agricultural-related purposes as follows:

10  
11 The Commission agreed to this change.

12  
13 20.40.650(2)(a) New or Modified Parcel Siting Criteria

14  
15 Commissioner Luke stated the separation of 500 feet seemed like a waste of land. How  
16 was that arrived at?

17  
18 Staff it is a result of the best practices research. It tries to address visual impacts, as  
19 stated in the GMA. The reduction of 10% percent was added as a result of comments  
20 heard through the public process.

21  
22 Commissioner Erickson asked if it would be possible to cluster all the lots in one corner.  
23 This would result in less impact from the farming operations.

24  
25 Staff responded by stating that the number of lots would need to be reduced from 6 to  
26 just 4 in one cluster because of the additional requirements of a long plat, which is more  
27 than 4 lots. Members stated there would be much less impact if the 6 lots were clustered  
28 together.

29  
30 Commissioner Honcoop asked what the waiting period is between creating short plats  
31 through this process.

32  
33 Staff stated there isn't one.

34  
35 Commissioner Honcoop stated this is a loophole that developers will pick up on.

36  
37 Commissioner Honcoop stated the requirements in 20.40.650 are too restrictive and  
38 citizens will not want to go through the process. It is also very contradictory.

39  
40 Staff stated they are trying to make it as easy as possible by using the term "to the  
41 extent possible" where they can and adhering to local and state laws.

42  
43 Commissioner Honcoop's opinion was that a farmer knows best where development  
44 should be located on their property which is contrary to the siting criteria.

45 20.40.650(2)(e)

46  
47 Commissioner Honcoop suggested the following changes:

48

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1 Residential building sites ~~and access drive~~ shall maintain sufficient separation from on-site  
2 and off-site agricultural resources and exterior property lines. The setback, lot coverage,  
3 and height standards for reconfigured lots shall be as established in WCC 20.40.350 to  
4 450; and

5  
6 The Commission agreed to the change. Staff will review how this impacts other sections of  
7 the code and come back to the Commission with their findings.

8  
9 Commissioner Luke asked Mark how TDRs would work in this program.

10  
11 Mark stated that the Ag Advisory Committee has discussed TDRs. They see lot  
12 configuration as helpful to farmers but realizing the risk of doing so my risk their ability to  
13 farm. They recognized TDRs as another way to capitalize on the development rights and  
14 get them off of their property.

15  
16 Commissioner Luke asked if there are other areas where a TDR program is working.

17  
18 Mark stated it works in some communities that have spent a lot of time and effort to  
19 make it work. Also there are so many exemptions in the Whatcom County code that it  
20 would make it difficult to work here. It could be done here with a lot of research and  
21 jurisdictional cooperation.

22  
23 Commissioner Rainey stated he doesn't like the Parcel Reconfiguration proposal because  
24 he believes it will lead to more development on ag land. He proposed the program be  
25 used in Rural zones for a trial period. A lot of the problems with development on the ag  
26 lands was pushed by the real estate market and they will be there pushing for  
27 development on the reconfigured parcels.

28  
29 Commissioner Luke questioned if there are any other methods for the lending institutions  
30 to let farmers access equity in their land.

31  
32 Commissioner Elenbaas feels the program will help farmers and their families in the  
33 future. He doesn't understand why there are conflicts with the neighbors of farmers. There  
34 is also property owners rights. That has to be in the balance. He is in favor of the program  
35 but realizes there will be some negative issues.

36  
37 Commissioner Erickson stated farmers do farm differently to avoid conflicts with the  
38 neighbors.

39  
40 Commissioner Honcoop related a phone conversation with a citizen who stated that  
41 because of the Rural Element the County took away his development rights so why is the  
42 County helping farmers keep their development rights? Commissioner Honcoop stated this  
43 person had a good point.

44  
45 Mark stated TDRs would help in situations like this because people can be compensated  
46 for their development rights.

47

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1 Commissioner Honcoop agreed with some of the others that this program will encourage  
2 development, especially if the segregated parcels are put in the corners.

3  
4 Staff will make the changes the Commission recommended and bring them back for  
5 review at the next meeting on February 14<sup>th</sup> followed by a public hearing on February  
6 28<sup>th</sup>.

7  
8 The meeting was adjourned at 10:50 p.m.

9  
10 Minutes prepared by B. Boxx.

11  
12  
13 WHATCOM COUNTY PLANNING COMMISSION ATTEST:

14  
15  
16  
17  
18 \_\_\_\_\_  
19 Michelle Luke, Chair

20 \_\_\_\_\_  
21 J.E. "Sam" Ryan, Secretary  
22  
23  
24