



WHATCOM COUNTY PLANNING COMMISSION

5280 Northwest Drive
Bellingham WA 98226

AGENDA October 10th, 2024

The Whatcom County Planning Commission will hold a **hybrid** meeting at 6:30 p.m., with the option to attend remotely or in person at 5280 Northwest Drive, Bellingham.

- Call to Order
- Roll Call
- Flag Salute
- Department Update
- Open Session for Public Comment
- Commissioner Comments
- Approval of Minutes of: September 26th, 2024
- Meeting Topics:
 - Public Hearing and Work Session regarding:
 - *The proposed adoption of the Seven-Year Capital Improvement Program (CIP) for Whatcom County Facilities 2025-2031 (Appendix F of the Whatcom County Comprehensive Plan).*
 - Work Session:
 - *Proposed amendments to WCC Title 22 (Land Use and Development), Chapter 20.97 (Definitions), and Title 20 (Zoning) to enact SSB 5290 regarding local project review.*
- Unfinished Business
- Adjournment

NOTE: For information on how to watch and participate in the meeting in real time, please visit the following web page: [Participate in Virtual Planning Commission Meeting](#)

Individuals who require special assistance to participate in the meetings are asked to contact "PDS_Planning_Commission@co.whatcom.wa.us" at least 96 hours in advance.

There are nine members on the Whatcom County Planning Commission. If you will be giving written information to the Commissioners, please give a copy to the Coordinator for our office files.

*For more information please contact Aileen Kogut-Aguon at (360)778-5935 or PDS_Planning_Commission@co.whatcom.wa.us
5280 Northwest Drive, Bellingham WA 98226*



**RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION
September 26, 2024**

Public Hearing and Work Session

1

1 **Call to Order**

2 The meeting was called to order by Whatcom County Planning Commission Chair,
3 Kelvin Barton at 6:31 p.m.

4 **Roll Call**

5 **Present:** Kelvin Barton, Suneeta Eisenberg, Jim Hansen, Dominic Mocerri, Scott Van
6 Dalen, Atul Deshmane

7 **Absent:** Stephen Jackson, Julie Jefferson, Frank James

8 **Staff Present:** Steve Roberge, Aileen Kogut-Aguon, Garrett Smith, Amy Keenan,
9 Cliff Strong, Jacqui Sullivan

10 **Department Update**

11 Steve Roberge, Assistant Director of Planning and Development Services (PDS)
12 spoke on the next 7-year capital improvement plan that is scheduled for a public
13 hearing with the Commission on October 10. Mr. Roberge stated there was a viral
14 computer issue earlier today that prevented the dissemination of information of
15 certain public comments that were received earlier in the day.

16 **Open Session Public Comment**

17 Ryan Bowman provided public comment.

18 **Commissioner Comments**

19 Commissioner Deshmane stated he had a conversation with Mark Geri from the
20 Longshoremen's Union regarding the public hearing agenda item H11 in the UGA.
21 There is a list of proposed amendments to the code which Mr. Geri had suggestions
22 on the transshipment section that will be talked about later in the meeting.
23 Commissioner Deshmane also mentioned he will be leaving the meeting between 7
24 and 8 and will return afterward.

25 Commissioner Hansen noted communication with Council Chairman Buchanan as a
26 private citizen on the UGA issues as a way to determine how much flexibility we
27 might have if we "colored outside the lines" on this issue.

28 Commissioner Mocerri asked staff if it would be possible to have staff presentations
29 made available for following along during recordings. Staff responded stating they
30 will upload the presentations to the Planning Commission website.

31 **Approval of Meeting Minutes**

32 **Timestamp: 18:43**

33 **1 Commissioner Atul moved to approve the meeting minutes from September**
34 **12th, 2024**

35 **Commissioner Van Dalen seconded.**

36 **Roll Call Vote: Ayes- Van Dalen, Hansen, Eisenberg, Deshmane, Barton**

37 **Abstain- Mocerri (Ayes-5; Nays-0; Abstain-1). The motion carried.**

38



RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION
September 26, 2024

Public Hearing and Work Session

2

1 **Heavy Impact Industrial in the Bellingham UGA**

2 **Timestamp: 18:47**

3 Cliff Strong, PDS Senior Planner, provided a PowerPoint presentation with the
4 timeline of when the HII in UGA was on the docket from Council, along with all of
5 the Commission work sessions since then. Mr. Strong presented a list of the public
6 comments that were given, along with the discussion and requests Commissioners
7 have had during each work session the HII was presented.

8 **a) Public Hearing and Work Session Regarding Heavy Impact Industrial**
9 **in the Bellingham UGA**

10 **Timestamp: 18:52**

11 Lisa Adam, Katie Robison, Ryan Bowman, Mark Geri, Brian Sarni, David Parsons,
12 David Toyer, Peter Condyles, Dan Tucker, and Perry Eskridge provided public
13 comment.

14 **Title 22 SSB 5290**

15 **Timestamp: 19:27**

16 Amy Keenan, PDS Special Projects Manager, provided information on proposed
17 amendments to WCC Title 22 regarding the permit processing and timeline changes
18 required by SSB 5290. Ms. Keenan presented the code changes that will be needed,
19 along with internal process improvements PDS. is undergoing to improve and work
20 more efficiently to meet the required timelines.

21 **b) Public Hearing and Work Session Regarding Title 22 SSB 5290**

22 **Timestamp: 19:37**

23 Ryan Bowman and Perry Eskridge provided public comment.

24 **SSB 5290 Work Session**

25 Due to the late arrival of the BIAWC's written comments just before the meeting,
26 Mr. Roberge requested to postpone the work session for the SSB 5290 until their
27 next meeting on October 10th so that staff could analyze and respond to them.

28 **HII in the UGA Work Session**

29 **Timestamp: 19:46**

30 **2Commissioner Deshmane moved** to reintroduce battery energy storage to the
31 *excluded uses list greater than 20 megawatts that runs for a duration of four hours*
32 *or greater.*

33 **Commissioner Eisenberg seconded.**

34 **Roll Call Vote: Ayes- Deshmane, Eisenberg, Hansen, Van Dalen, Barton**

35 **Abstain- Mocerri (Ayes- 5; Nays- 0; Abstain- 1). The motion carried.**

36 **Timestamp: 20:41**

37 **3Commissioner Deshmane moved** to amend item H in "excluded lists" to add
38 *before semi-colon: "except fully enclosed containers".*



**RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION
September 26, 2024**

Public Hearing and Work Session

3

1 **Commissioner Van Dalen seconded.**

2 **Roll Call Vote: Ayes- Eisenberg, Van Dalen, Deshmane, Mocerri, Hansen,**
3 **Barton**

4 **(Ayes- 6; Nays- 0; Abstain- 0). The motion carried.**

5 **Timestamp: 20:43**

6 **4Commissioner Deshmane moved** to adopt the proposal with the finding of
7 *facts.*

8 **Commissioner Eisenberg seconded.**

9 **Roll Call Vote: Ayes- Deshmane, Van Dalen, Eisenberg, Barton**

10 **Nays- Mocerri**

11 **Abstain- Hansen (Ayes- 4; Nays- 1; Abstain- 1). The motion fails.**

12 **Timestamp: 20:55**

13 **5Commissioner Hansen moved** to submit recommendation to council to impose
14 *a moratorium for new developments and permitting pending a resolution during the*
15 *Comprehensive Plan update.*

16 **Commissioner Eisenberg seconded.**

17 **Roll Call Vote: Ayes- Mocerri, Van Dalen, Eisenberg, Hansen, Barton**

18 **Abstain- Deshmane (Ayes- 5; Nays- 0; Abstain- 1). The motion carried.**

19 **Adjournment**

20 **Timestamp: 20:56**

21 The meeting was adjourned at 8:57 p.m.

22 Minutes prepared by Aileen Kogut-Aguon.

23 WHATCOM COUNTY PLANNING COMMISSION ATTEST:

24

25 _____
Kelvin Barton, Chair

Aileen Kogut-Aguon, Secretary



Memorandum

October 2, 2024

To: The Whatcom County Planning Commission
From: Lucas Clark, Planner I
Through: Steve Roberge, Assistant Director
RE: Capital Facilities Planning/Seven-Year CIP (PLN2024-00001)

The subject proposal is to modify the Whatcom County Comprehensive Plan as follows:

- Adopting a new Seven-Year Capital Improvement Program (CIP) for Whatcom County Facilities 2025-2031 (Appendix F of the Whatcom County Comprehensive Plan); and
- Repealing the existing Six-Year CIP for Whatcom County Facilities 2023-2028.

The CIP for Whatcom County Facilities addresses County parks, trails, activity centers, maintenance and operations, general government buildings and sites, Sheriff's Office, emergency management, adult corrections, juvenile detention, transportation, and stormwater facilities. The Whatcom County Comprehensive Plan indicates that the CIP should be updated every two years. The last comprehensive CIP update was approved by the County Council in 2022. Therefore, the CIP is being updated in 2024.

For the 2025 CIP update it is proposed to use a Seven-Year planning period to better align the CIP with other planning reports in the future. The GMA requires a minimum six-year CIP, which would need to go through the year 2031 for the 2025 Comp Plan Update (normally, the CIP formulated for 2024 would only go through the year 2030). The CIP is intended to be updated every other year (along with the budget). Developing a 7-year CIP in 2024 would (potentially) avoid the need to update it again in 2025 along with the Comp Plan update.

Planning & Development Services is requesting Planning Commission consider recommending to The County Council the new 2025-2031 Seven-Year CIP and repealing of the old 2023-2028 six year CIP on October 10th. It is anticipated that the County Council will make a final decision on the Seven-Year CIP with approval of the biennial budget in November.

Thank you for your review and consideration of this matter. We look forward to discussing it with you.

**WHATCOM COUNTY
PLANNING COMMISSION**

Seven-Year Capital Improvement Program

FINDINGS OF FACT AND REASONS FOR ACTION

Background Information

1. The proposal is to amend the Whatcom County Comprehensive Plan as follows:
 - a. Adopting the new Seven-Year Capital Improvement Program (CIP) for Whatcom County Facilities 2025-2031 (Appendix F of the Whatcom County Comprehensive Plan).
 - b. Repealing the existing Six-Year CIP for Whatcom County Facilities 2023-2028.
2. Notice of the subject amendments was submitted to the Washington State Department of Commerce on August 7, 2024.
3. A Determination of Non-Significance was issued under the State Environmental Policy Act (SEPA) by the Responsible Official on August 19th, 2024.
4. Notice of the Planning Commission hearing for the subject amendments was published in the Bellingham Herald on September 25, 2024.
5. Notice of the Planning Commission hearing was posted on the County website on October 2, 2024.
6. Notice of the Planning Commission hearing was sent to citizens, media, cities and others on the County's e-mail list on October 2, 2024.
7. The Planning Commission held a public hearing on the subject amendments on October 10, 2024.

8. Pursuant to WCC 22.10.060(1), in order to approve the proposed comprehensive plan amendments, the County must find all of the following:
 - a. The amendment conforms to the requirements of the Growth Management Act, is internally consistent with the county-wide planning policies and is consistent with any interlocal planning agreements.
 - b. Further studies made or accepted by the Department of Planning and Development Services indicate changed conditions that show need for the amendment.
 - c. The public interest will be served by approving the amendment. In determining whether the public interest will be served, factors including but not limited to the following shall be considered:
 - i. The anticipated effect upon the rate or distribution of population growth, employment growth, development, and conversion of land as envisioned in the comprehensive plan.
 - ii. The anticipated effect on the ability of the county and/or other service providers, such as cities, schools, water and/or sewer purveyors, fire districts, and others as applicable, to provide adequate services and public facilities including transportation facilities.
 - iii. Anticipated impact upon designated agricultural, forest and mineral resource lands.
 - d. The amendment does not include or facilitate spot zoning.

Growth Management Act

9. The Growth Management Act (GMA) establishes planning goals in RCW 36.70A.020 to guide adoption of comprehensive plan amendments.
10. GMA planning goal # 12 is to "Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards" (RCW 36.70A.020(12)).

11. The subject amendments update the Seven-Year CIP for Whatcom County Facilities for the 2025-2031 planning period. Updating the CIP is one step in the process of planning regional facilities provided by the County to serve the people of Whatcom County.
12. The GMA, at RCW 36.70A.070(3), requires that a comprehensive plan must include a capital facilities plan element consisting of:
 - a. An inventory of existing capital facilities owned by public entities, showing the locations and capacities of the capital facilities.
 - b. A forecast of the future needs for such capital facilities.
 - c. The proposed locations and capacities of expanded or new capital facilities.
 - d. At least a six-year plan that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes.
 - e. A requirement to reassess the land use element if probable funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent.
13. The Seven-Year CIP for Whatcom County Facilities contains an inventory of existing facilities, a forecast of future needs based upon the level of service standards adopted in the Whatcom County Comprehensive Plan and/or other relevant factors, proposed capital facility projects, costs and funding sources.
14. Existing Comprehensive Plan Policy 4A-4 addresses the GMA requirement to reassess the land use element if probable capital facility funding falls short.

County-Wide Planning Policies

15. County-Wide Planning Policy K-1 indicates that, as part of the comprehensive planning process, the County must identify appropriate land for public facilities that meets the needs of the community including recreation, transportation and human service facilities.
16. The Seven-Year CIP identifies County park, trail, activity center, transportation and other improvements as contemplated by the County Wide Planning Policies.

Interlocal Agreements

17. Existing interlocal agreements between Whatcom County and the cities indicate that the County will consult with the appropriate city in planning new road construction projects within the city's urban growth area. The interlocal agreements also address joint planning for parks.
18. The County Engineer confirmed on August 7, 2024 that the County sends a copy of the six-year transportation improvement program to cities and coordinates projects with the applicable city. The Whatcom County Parks Director confirmed on August 12, 2024 that the County Parks' staff maintains a working relationship with appropriate staff from cities on joint park projects and planning. Therefore, the type of cooperation envisioned by the interlocal agreements is occurring.

Further Studies/Changed Conditions

19. The Whatcom County Comprehensive Plan calls for an update of the Six-Year CIP for County facilities every other year. Specifically, Policy 4B-1 is to:

Maintain and update, on at least a biennial basis, a six-year capital improvement program (CIP) that identifies projects, outlines a schedule, and designates realistic funding sources for all county capital projects based on a review of population and revenue conditions existing at that time.
20. A revised CIP has been formulated for County owned or operated facilities, which presents improvement projects over the new seven-year planning period.

Public Interest

21. The Seven-Year CIP for Whatcom County Facilities 2025-2031 is based upon anticipated population growth over the seven-year planning period and other relevant factors. Therefore, the proposal should complement the County's growth and development plans.
22. The Seven-Year CIP for Whatcom County Facilities will have a positive impact on the County's ability to provide public facilities by planning ahead for such facilities.
23. The goal of the Seven-Year CIP for Whatcom County Facilities is to plan for County owned or operated parks, trails, activity centers, maintenance and operations, general government buildings and sites, Sheriff's Office, emergency management, adult corrections, juvenile detention,

transportation, and stormwater facilities to serve the people of Whatcom County. Planning for such County facilities is in the public interest.

Spot Zoning

24. The subject proposal does not involve rezoning property.

CONCLUSION

The subject Whatcom County Comprehensive Plan amendments are consistent with the approval criteria in WCC 22.10.060.

RECOMMENDATION

Based upon the above findings and conclusions, Whatcom County Planning Commission recommends :

1. Approval of Exhibit A, the Seven-Year Capital Improvement Program for Whatcom County Facilities 2025-2031 (Appendix F of the Whatcom County Comprehensive Plan).
2. Repealing Exhibit B, the Six-Year Capital Improvement Program for Whatcom County Facilities 2023-2028.

WHATCOM COUNTY PLANNING COMMISSION

Kelvin Barton, Chair

Aileen Kogut-Aquon, Secretary

Date

Date

Exhibit A
Seven-Year
Capital Improvement Program
For Whatcom County Facilities
2025-2031

Table of Contents

Chapter 1 – Introduction.....	3
Growth Management Act Requirements.....	3
Charter Provisions and the County Budget.....	4
Chapter 2 – Parks, Trails, and Activity Centers.....	5
Parks.....	5
Future Needs.....	6
Proposed Improvement Projects.....	6
Trails.....	6
Future Needs.....	7
Proposed Improvement Projects.....	7
Activity Centers.....	8
Future Needs.....	8
Proposed Improvement Projects.....	9
Six-Year Capital Improvement Program.....	9
Chapter 3 – Maintenance and Operations.....	11
Existing Maintenance and Operations Space.....	11
Future Needs.....	11
Proposed Improvement Projects.....	11
Chapter 4 – General Government Buildings and Sites.....	12
Existing Office Space.....	12
Future Needs.....	12
Proposed Improvement Projects.....	12

Chapter 5 – Sheriff’s Office	14
Existing Sheriff’s Office Space	14
Future Needs	14
Proposed Improvement Projects.....	14
Chapter 6 – Emergency Management	16
Existing Emergency Management Space.....	16
Future Needs	16
Proposed Improvement Projects.....	16
Chapter 7 – Adult Corrections.....	17
Existing Jail Facilities	17
Future Needs	17
Proposed Improvement Projects.....	18
Chapter 8 – Juvenile Detention	19
Existing Juvenile Detention Facilities	19
Future Needs	19
Proposed Improvement Projects.....	19
Chapter 9 – Transportation	20
Existing Roads	20
Future Needs	20
Proposed Improvement Projects.....	20
Existing Ferry Facilities	21
Future Needs	21
Proposed Improvement Projects.....	21
Total Transportation Costs.....	21
Chapter 10 – Stormwater Facilities.....	22
Existing Stormwater Management Facilities	22
Future Needs	23
Proposed Improvement Projects.....	23
Chapter 11 – Total Costs.....	25

Chapter 1 – Introduction

The Growth Management Act requires that the County’s Comprehensive Plan include a “capital facilities plan element” (RCW 36.70A.070(3)). The Whatcom County Comprehensive Plan calls for the County to develop and update the Seven-Year Capital Improvement Program (CIP) for County projects every two years. The main purpose of the Capital Improvement Program is to identify priority capital improvement projects and estimated costs, outline a schedule for project completion, and designate funding sources for these projects based on a review of existing and projected population and revenue conditions for the six year planning period. For the 2025-2031 planning period PDS has opted to make the update for seven years to better align it with future updates.

Growth Management Act Requirements

According to the Growth Management Act, a county’s capital facilities plan must include five items, which are shown below.

1. *An inventory of existing capital facilities owned by public entities, showing the locations and capacities of the capital facilities.*

Current inventories of existing County capital facilities, based upon information provided by various County departments, are included in each chapter of this document.

2. *A forecast of the future needs for such capital facilities.*

Chapter 4 of the Whatcom County Comprehensive Plan establishes numerical “level of service” standards for County parks and trails and contains policies relating to other County facilities. Capital facility needs are forecasted over the six-year planning period by applying the adopted level of service standards to the expected population in the year 2031 and by considering other relevant factors.

3. *Proposed locations and capacities of expanded or new capital facilities.*

General locations and capacities of proposed County facilities are indicated in this document (as applicable).

4. *At least a six-year plan that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes.*

This Seven-Year Capital Improvement Program presents costs and funding

sources for proposed County capital facilities (all figures are in 2024 dollars). There are a variety of funding sources that the County may utilize to pay for capital facilities, including real estate excise taxes (REET), sales tax, the Public Utilities Improvement Fund (also known as the Rural Sales Tax Fund, Economic Development Investment Fund or EDI Fund), Road Fund, state grants, federal grants and a variety of other sources.

5. *A requirement to reassess the land use element if probable funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent.*

Finally, in accordance with the Growth Management Act, a requirement to reassess the land use element of the Comprehensive Plan if probable funding falls short of meeting existing needs and to ensure consistency between plans already exists in the Comprehensive Plan (Policy 4A-4).

Charter Provisions and the County Budget

In addition to Growth Management Act provisions relating to capital facilities, Section 6.30 of the County Charter also requires the County to include a six-year capital improvement program as part of the budget. Appropriations for 2024-2025 capital projects may be included in the biennial budget or may be adopted through the supplemental budget process. Ultimate funding for capital improvement projects is subject to County Council authorization in the adopted budget. Costs identified for 2026-2031 are included for planning purposes and review of potential future needs, but not for budget authorization at this time.

Chapter 2 – Parks, Trails, and Activity Centers

Parks

The 2024 inventory of County parks and open space areas is over 16,200 acres. This inventory is shown in Table 1 below.

Table 1. Existing Parks

Site No.	Park Name and Location	Acres
1	Alderwood Park, 3479 Willowwood Rd.	1.9
2	Bay Horizon Park, 7467 Gemini St.	68.2
3	Birch Bay Beach Park, 7930 Birch Bay Dr.	13.7
4	Birch Bay Conservancy Area, 7000 Point Whitehorn Rd.	45.0
5	Birch Bay Tidelands	151.0
6	Boulevard Park, 471 Bayview Dr.	1.4
7	Broadway Beach Access, 7497 Birch Bay Dr.	0.1
8	Cagey Road, 3130 Haxton Way	20.0
9	Camp 2 RR ROW, 3775 Camp 2 Rd.	2.3
10	Canyon Lake Community Forest, 8300 Mt. Baker Hwy.	2,266.0
11	Chuckanut Mountain Park, 745 Old Samish Rd.	987.9
12	Cottonwood Beach Access, 8191 Birch Bay Dr.	5.1
13	Deming Eagle Homestead Park, 5615 Truck Rd.	33.0
14	Dittrich Park, 319 E Lake Samish Rd.	25.2
15	Drayton Harbor Tidelands	0.3
16	Euclid Park, 1570 Euclid Ave.	2.2
17	Galbraith Mountain Access, 800 Birch Falls Dr.	20.0
18	Glacier Cemetery	0.5
19	Halverson Park, 5075 Anderson Rd.	5.6
20	Haynie Road, 2876 Haynie Rd.	1.9
21	Hegg, 3845 Blue Canyon Rd.	3.5
22	Hovander Homestead Park and Tennant Lake, 5299 Nielsen Rd.	333.4
23	Jackson Rd. Beach Access, 7465 Birch Bay Dr.	0.2
24	Jensen Family Forest Park, 8051 Stein Rd.	21.5
25	Josh VanderYacht Park, 4106 Valley Highway	2.0
26	Kickerville Road, 4110 Bay Rd.	2.6
27	Lake Whatcom Park, 3220 North Shore Rd.	4,853.0
28	Lighthouse Marine Park, 811 Marine Dr. in Point Roberts	20.5
29	Lily Point Marine Park, 2315 APA Rd. in Point Roberts	262.1
30	Little Squallcum Park, 640 Marine Dr.	12.7
31	Lookout Mountain Forest Preserve, 2537 Lake Louise Rd.	4,682.8
32	Lummi Island Beach Access, 2198 N. Nugent Rd.	0.2
33	Maple Beach Tidelands	100.9
34	Maple Creek Park, 7842 Silver Lake Rd.	73.1
35	Maple Falls Community Park, 7470 Second St.	4.2
36	Monument Park, 25 Marine Dr. in Point Roberts	6.9
37	Nugent's Corner River Access, 3685 Mt. Baker Highway	14.2
38	Ostrom Conservation Site, 4304 South Pass Rd.	38.6
39	Phillips 66 Soccer Park, 5238 Northwest Dr.	36.6
40	Point Whitehorn Marine Reserve, 6770 Koehn Rd.	54.1
41	Redwood Park, 3310 Redwood Ave.	0.3
42	Samish Park, 673 N. Lake Samish Dr.	30.6
43	Samish Way, 5170 Samish Way	1.4
44	Semiahmoo Park, 9261 Semiahmoo Parkway	291.9
45	Silver Lake Park, 9006 Silver Lake Rd.	413.4
46	South Fork Park, 1530 Mosquito Lake Rd.	642.5
47	South Lake Whatcom Park, 4144 S Bay Dr.	79.5
48	South Pass East, 4900 South Pass Rd.	0.5
49	South Pass West, 4190 South Pass Rd.	0.4
50	Squires Lake Park, 2510 Nulle Rd.	90.1
51	Stimpson Family Nature Reserve, 2076 Lake Louise Rd.	400.4
52	Sunnyside Landing, 2870 Northshore Rd.	6.3
53	Sunset Beach, 2580 West Shore Dr. on Lummi Island	7.0
54	Sunset Farm Park, 7977 Blaine Rd.	69.5
55	Ted Edwards Park, 4150 Oriental Ave.	3.5
56	Teddy Bear Cove Park, 1467 Chuckanut Dr.	11.2
57	Terrell Creek Access, 7417 Jackson Rd.	0.5
58	Terrell Creek Heron Rookery, 7065 Jackson Rd.	15.0
59	Terrell Creek Point, 7685 Birch Bay Dr.	6.7
60	Turner-Jaeger, 1975 Lake Louise Rd.	3.8
61	Welcome Bridge River Access, 5585 Mosquito Lake Rd.	0.6
	TOTAL	16,249.5

Pursuant to RCW 36.87.130, there are also public access properties on right-of-way ends that intersect shorelines. Whatcom County also holds public access easements for recreational purposes on certain lands owned by the City of Lynden, Whatcom Land Trust and the Lummi Island Heritage Trust.

Future Needs

A level of service of 9.6 acres of developed parkland for every 1,000 people in the County was adopted in the Whatcom County Comprehensive Plan. The County's existing parks will meet the adopted level of service over the six-year planning period. However, the County is proposing park planning and capital improvement projects to increase service levels at existing park facilities. This includes developing the Birch Bay Beach Park to meet the longer term needs of a growing population. It also includes a robust update of the County's Comprehensive Parks, Recreation, and Open Space plan to reflect current community needs and development of key park-specific plans to guide coordinated development of future park infrastructure and amenities.

Proposed Improvement Projects

Park improvement projects, totaling approximately \$49.2 million, are proposed over the seven-year planning period (see Table 4). Priorities include funding for environmental cleanup efforts associated with lead contaminated soils at Plantation Rifle Range, and improved shower and restroom facilities at Silver Lake Park, and restroom facilities at the Birch Bay Beach Park.

Trails

Whatcom County currently has over 79 miles of trails in various locations throughout the County. This inventory is shown in Table 2 below.

Table 2. Existing Trails

Site No.	Trail Name and Location	Miles
1	Bay Horizon/Bay Crest Trail	0.75
2	Bay to Baker Maple Falls-Glacier	4.00
3	Birch Bay Drive and Pedestrian Facility	1.58
4	Canyon Lake Community Forest	7.01
5	Chuckanut Mountain / Pine & Cedar Lakes	16.60
6	Deming Homestead Eagle Park, Truck Rd.	0.30
7	Hovander Homestead Park	3.20
8	Interurban, Chuckanut area	3.15
9	Jensen Family Forest Park, Stein Rd. and Birch Bay Lynden Rd.	0.67
10	Lake Whatcom Park	12.60
11	Lily Point, Point Roberts	2.00
12	Lookout Mountain Forest Preserve	6.80
13	Maple Creek Park, 7842 Silver Lake Rd., Maple Falls	1.28
14	Monument Park, 25 Marine Dr. in Point Roberts	0.35
15	Phillips 66 Soccer Park Trail (Used to be Northwest Soccer Park), Smith	0.38
16	Ostrom Conservation Site, 4304 South Pass Rd.	0.56
17	Point Whitehorn Marine Reserve, 6770 Koehn Rd, Birch Bay	0.81
18	Samish Park, 673 N. Lake Samish	1.38
19	Semiahmoo Park	0.63
20	Silver Lake Park, 9006 Silver Lake Rd.	5.28
21	South Fork Park	2.30
22	Squires Lake, 2510 Nulle Rd.	2.88
23	Stimpson Family Nature Reserve, 2076 Lake Louise Rd.	4.02
24	Sunset Farm, 7977 Blaine Rd.	0.56
25	Teddy Bear Cove	0.33
TOTAL		79.42

Future Needs

A level of service of 0.60 miles of trails for every 1,000 people in the County was adopted in the Whatcom County Comprehensive Plan. With projected population growth in Whatcom County over the next six years, about 74 additional miles of trails would be needed by the year 2028 to serve the people of Whatcom County.

Proposed Improvement Projects

Trail improvement projects and associated facilities, totaling approximately \$8.3 million dollars, are proposed over the six-year planning period (see Table 4). These projects would add up to 32.1 trail miles (the South Fork Park trails project would add 5.5 miles, the Lake Whatcom trails project would add up to 20 miles, Governor’s Point 2.6 and Bay to Baker Trail 4.0).

While there is a shortfall in trail miles provided by the County, there are other

trails that are owned/maintained by a variety of agencies or jurisdictions that provide recreational opportunities for Whatcom County residents and visitors.

Activity Centers

There are currently 13 activity centers that provide a variety of year-round programs for various age groups. The activity center inventory is shown in Table 3 below.

Table 3. Existing Activity Centers

Site No.	Activity Center Name and Location
1	Bay Horizon, 7511 Gemini Street
2	Bellingham Senior Activity Center, 315 Halleck Street
3	Blaine Community Senior Center, 763 G Street
4	East Whatcom Regional Resource Center, 8251 Kendall Rd
5	Everson Senior Center, 111 W. Main Street
6	Ferndale Senior Center, 1999 Cherry Street
7	Lynden Senior Center, 401 Grover Street
8	Plantation Rifle Range, 5102 Samish Way
9	Point Roberts Senior Center, 1487 Gulf Road
10	Roeder Home, 2600 Sunset Dr.
11	Sumas Senior Center, 461 2nd Street
12	Van Zandt Community Hall, 4106 Valley Highway
13	Welcome Senior Center, 5103 Mosquito Lake Rd

Note: The Blaine, Everson, Lynden and Sumas Centers are owned by these respective cities. The Point Roberts Center is owned by the Point Roberts Park District. Whatcom County provides and/or contracts for senior activities and recreational programming at these centers.

Future Needs

The Whatcom County Comprehensive Plan does not contain a level of service standard for activity centers. Rather, Comprehensive Plan Policy 4F-5 states:

Continue to provide and support activity centers, including senior centers, to serve the growing population of Whatcom County by the following methods, as needed, which are listed in priority order: (1) implementing programming changes, (2) adding space to existing centers, and/or (3) establishing new centers.

Proposed Improvement Projects

Eight activity center projects are proposed. These projects will cost about \$8.3 million within the six-year planning period (see Table 4).

Six-Year Capital Improvement Program

The park, trail, and activity center projects planned over the next six years are shown below.

Table 4. Park, Trail, and Activity Center Projects

Project # and Name	Funding Source	Total									Totals	Type
		2025	2026	2027	2028	2029	2030	2031				
2 Alderson Rd End Day-Use Improvements	Parks	5,7	75,000	250,000	0	0	0	0	0	0	325,000	Park
6 Birch Bay Beach Park Development	Parks	4, 5, 6, 7,	260,000	2,552,500	2,628,500	0	0	0	0	0	5,441,000	Park
7 Canyon Lake Community Forest Access Road	Parks	4	10,000	10,000	0	0	0	0	0	0	20,000	Park
8 EWRCC - Building and Site Improvements	Parks	8, 13, 14	1,315,000	250,000	250,000	0	0	0	0	0	1,815,000	Activity Center
9 Ferndale Senior Center Building Repairs	Parks	1	125,000	214,350	214,350	0	0	0	0	0	553,700	Activity Center
10 Ferndale Senior Center HVAC Replacement at	Parks	1	0	0	0	0	0	0	335,000	0	335,000	Activity Center
11 Ditrich Park Parking and Day Use Improver	Parks	2, 4	0	0	50,000	150,000	0	0	0	0	200,000	Park
12 Glacier Restroom Site Improvements	Parks	7	38,500	261,500	0	0	0	0	0	0	300,000	Park
13 Governer's Point Acquisition and Trailhead d	Parks	1, 2, 5	1,132,500	212,500	0	0	0	0	0	0	1,345,000	Park
15 Hovander Flood Repair and Mitigation	Parks	3	100,000	200,000	0	0	0	0	0	0	300,000	Park
16 Hovander Maintenance Shop Facility Prograr	Parks	2	1,415,000	0	0	0	0	0	0	0	1,415,000	Park
18 Hovander Rental Residence Demolition	Parks	2	55,000	0	0	0	0	0	0	0	55,000	Park
19 Hovander Slough Bridge Replacement	Parks	2	0	0	100,000	200,000	0	0	0	0	300,000	Park
20 Jensen Family Nature Reserve Parking Lot Im	Parks	2	0	0	0	0	0	0	0	450,000	450,000	Park
21 Lake Whatcom Park Forest Management Plai	Parks	2, 4, 6, 8,	200,000	200,000	500,000	200,000	400,000	200,000	0	0	1,700,000	Park
22 Lake Whatcom Park Trail Development and C	Parks	2	121,500	580,000	125,000	492,000	520,400	547,100	0	0	2,386,000	Trail
23 Lake Whatcom Park Trailhead Improvement:	Parks	2	0	0	0	0	325,000	250,000	0	0	575,000	Trail
24 Point Roberts Public Boat Launch	Parks	5, 8	400,000	425,000	425,000	0	0	0	0	0	1,250,000	Park
25 Lighthouse Marine Park - Master Plan/Park I	Parks	4, 8	0	0	250,000	265,000	0	0	0	0	515,000	Park
28 Lookout Mountain Forest Preserve Parking II	Parks	2	0	0	0	124,100	300,000	0	0	0	424,100	Trail
29 Lookout Mountain Forest Preserve LM 2000	Parks	2, 3, 4	500,000	0	0	0	0	0	0	0	500,000	Park
30 Maple Falls Community Park Maintenance Bt	Parks	2	158,000	0	0	0	0	0	0	0	158,000	Park
31 Maple Falls Community Park Trailhead Imprc	Parks	2, 7, 8	0	0	200,000	825,000	0	0	0	0	1,025,000	Park
32 Miscellaneous Parks Capital Improvements	Parks	2	150,000	150,000	150,000	150,000	0	0	0	0	600,000	Park
33 Multi-Modal Regional Trail Planner Position	Parks	2, 10	128,662	133,138	141,785	151,228	161,540	172,801	0	0	889,154	Trail
34 Multi-Modal Regional Trail Planning Design a	Parks	1, 5, 6, 8	80,000	247,000	950,000	950,000	340,000	240,000	0	0	2,807,000	Trail
35 Parks Headquarters	Parks	14	872,400	0	0	0	0	0	0	0	872,400	Park
36 Parks Construction Supervisor	Parks	2	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	350,000	Park
37 Plantation Rifle Range Site Acquisition	Parks	5	0	0	0	0	750,000	0	0	0	750,000	Activity Center
38 Plantation Indoor Range Targeting System Re	Parks	1, 8	0	530,000	0	0	0	0	0	0	530,000	Activity Center
39 Plantation Rifle Range Lead Remediation and	Parks	1, 8	1,904,857	1,904,857	1,904,857	1,904,857	1,904,857	1,904,857	1,904,858	13,334,000	Activity Center	
41 Roeder Home Historic Structure Stabilization	Parks	2, 8	100,000	0	0	0	0	0	0	0	100,000	Activity Center
42 Samish Park Retaining Wall Stabilization and I	Parks	2	35,000	50,000	0	0	0	0	0	0	85,000	Park
43 Samish Park Residence Delolition	Parks	2	60,000	0	0	0	0	0	0	0	60,000	Park
44 Samish Park Water System	Parks	2	100,000	360,000	0	0	0	0	0	0	460,000	Park
45 Semiahmoo Park Sewage Pump Replacement	Parks	2	348,800	0	0	0	0	0	0	0	348,800	Park
46 Silver Lake Park Boat Launch Renovation	Parks	2	97,750	201,250	0	0	0	0	0	0	299,000	Park
47 Silver Lake Park Cabin and Lodge Renovation	Parks	2	0	62,458	0	0	0	0	0	0	62,458	Park
48 Silver Lake Park Cedar Campground Improve	Parks	2	0	0	0	0	0	0	0	750,000	750,000	Park
49 Silver Lake Park Group Camp Improvements	Parks	2	0	0	0	0	0	0	480,000	0	480,000	Park
50 Silver Lake Park Lagoon Trail Renovation/Lag	Parks	2	0	57,500	200,000	0	0	0	0	0	257,500	Park
52 Silver Lake Park Red Mt Campground Improv	Parks	2	0	0	0	0	0	0	750,000	0	750,000	Park
53 Silver Lake Park Rental Residence Demolition	Parks	2	0	0	0	0	0	0	125,000	0	125,000	Park
54 Silver Lake Park Utility Improvements	Parks	2	335,000	1,515,000	0	0	0	0	0	0	1,850,000	Park
56 South Fork Park Loop Trail Improvements	Parks	2	0	0	0	0	0	0	276,600	0	276,600	Trail
57 South Fork Park Nessel Farm Gateway Impr	Parks	2, 6	0	156,000	845,000	0	0	0	0	0	1,001,000	Trail
59 Van Zandt Community Hall Renovation	Parks	2, 6, 8	452,000	333,000	0	0	0	0	0	0	785,000	Activity Center
Total			10,619,969	10,906,053	8,984,492	5,462,185	4,751,797	3,699,758	4,786,458	49,210,712		

Funding Sources:

1. Real Estate Excise Tax (REET 1)
2. Real Estate Excise Tax (REET 2)
3. Federal Emergency Management Agency (FEMA)
4. Parks Special Revenue Fund
5. Conservation Futures Funds
6. Donations
7. Lodging Tax (Hotel-Motel Tax)
8. Grants
9. Whatcom Policy Group
10. County Road Fund
11. Transportation Benefit District
12. General Fund
13. ARPA
14. EDI

Chapter 3 – Maintenance and Operations

Existing Maintenance and Operations Space

The 2022 inventory of maintenance & operations/facilities management space is 70,681 square feet. This inventory is shown below.

Table 5. Existing Space

Site No.	Facility Name	Square feet
1	Central Shop, 901 W. Smith Rd. (Maintenance and Operations)	35,773
2	3720 Williamson Way (Facilities Management)	31,248
3	Minimum Security Correction Facility - 2030 Division St. (Facilities Management Storage)	3,660
TOTAL		70,681

Future Needs

The Whatcom County Comprehensive Plan does not contain a level of service standard for maintenance and operations. The County will budget for improvements to such facilities as needed.

Proposed Improvement Projects

Improvement and maintenance projects on existing buildings and sites over the six-year planning period total over \$3.7 million as shown below.

Table 6. Maintenance and Operations Projects

Project # and Name	Funding Source	Year									Total Cost
		2025	2026	2027	2028	2029	2030	2031			
1 Central Shop NPDES Permit Compliance Plan - 901 W. Smith Rd.	1	\$ 1,200,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	1,200,000
2 Road Oil Tank Removal - 901 W. Smith Rd.	1	\$ 30,000	\$ 100,000	\$ 200,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	330,000
3 Salt Storage Building - 901 W. Smith Rd.	1	\$ 150,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	150,000
4 NE Truck Shed Structural Repair - 901 W. Smith Rd.	1	\$ 160,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	160,000
5 Fuel Tank Removal and Abatement - 901 W. Smith Rd.	1	\$ 1,000,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	1,000,000
6 NPDES Vactor Building - 901 W. Smith Rd.	1	\$ -	\$ 750,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	750,000
7 Site Prep of Anti Icing Brine System- 901 W. Smith Rd.	1	\$ 150,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	150,000
TOTAL		\$ 2,690,000	\$ 850,000	\$ 200,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	3,740,000

Funding Sources

1. Road Fund
2. Federal and State Grant Funded

Chapter 4 – General Government Buildings and Sites

Existing Office Space

The 2024 inventory of County government office space is 313,395 square feet at eleven locations. This inventory is shown below.

Table 7. Existing County Government Office Space

Site No.	Facility Name	Square feet
1	Civic Center Annex (322 North Commercial)	30,000
2	Central Plaza Building (215 N. Commercial)	10,307
3	County Courthouse (311 Grand Avenue)	178,476
4	Lottie St. Annex (316 Lottie St.)	2,533
5	509 Girard St.	13,189
6	3373 Mt. Baker Highway	2,110
7	1500 N. State St.	20,045
8	Northwest Annex (5280 Northwest Dr.)	20,265
9	Crisis Stabilization Center (2026 Division St.)	24,450
10	110 Unity Street	21,800
11	121 Unity Street	1,200
	TOTAL	324,375

The County also rents 4,820 of building space at 600 Dupont St.

Future Needs

The Whatcom County Comprehensive Plan does not contain a level of service standard for general government buildings. The County will budget for improvements to such facilities as needed.

Proposed Improvement Projects

Improvement and maintenance projects on existing buildings and sites over the six-year planning period total approximately \$57.6 million as shown below.

Table 8. Government Building and Site Projects

Project Name	Department	Funding Sources	2025	2026	2027	2028	2029	2030	2031	Total
Annual Security Equipment End of Facilities	Facilities	1, 2	50,000	50,000	50,000	50,000	50,000	50,000	50,000	350,000
Courthouse Locks	Facilities	1, 2	-	-	-	30,000	30,000	-	-	60,000
Courthouse South Parking Lot Grif	Facilities	1, 2	205,000	-	-	-	-	-	-	205,000
Asphalt Replacement	Facilities	1	-	60,000	60,000	60,000	60,000	60,000	60,000	360,000
Carpet Replacement	Facilities	1	75,000	75,000	75,000	75,000	75,000	75,000	75,000	525,000
Interior Painting	Facilities	1	62,500	62,500	62,500	62,500	62,500	62,500	62,500	437,500
Point Roberts Sheriff Compound R	Facilities	1	-	37,500	-	-	-	-	-	37,500
ADA Compliance	Facilities	1	40,000	40,000	40,000	40,000	40,000	40,000	40,000	280,000
Construction Coordinator	Facilities	1	10,000	10,000	10,000	10,000	10,000	10,000	10,000	70,000
Elevator Replacements	Facilities	1, 2	575,500	339,400	-	-	-	-	-	914,900
NW Annex Debt Service	Facilities	1, 2, 11	2,455,662	2,455,662	2,455,662	2,455,662	2,455,662	2,455,662	2,455,662	17,189,634
Courthouse Exterior	Facilities	1, 2	2,051,898	2,051,898	2,051,898	2,051,898	2,051,898	-	-	10,259,490
ADA Courtroom Improvements	Facilities	1	300,000	-	-	-	-	-	-	300,000
Electric Vehicle Charging Station:	Facilities	2, 12	250,000	250,000	-	-	-	-	-	500,000
23-Hour Crisis Relief Center	Facilities	6	19,200,000	3,250,000	-	-	-	-	-	22,450,000
Unity Street Purchase and Tenant	Facilities	6	500,000	-	-	-	-	-	-	500,000
Solar Retrofits	Facilities	2, 6	250,000	250,000	250,000	250,000	250,000	250,000	250,000	1,750,000
Jail Security Upgrades	Facilities	6	200,000	150,000	-	-	-	-	-	350,000
County Building Maintenance	Facilities	2	50,000	50,000	50,000	50,000	50,000	50,000	50,000	350,000
Courthouse Boiler Repairs	Facilities	1	100,000	-	-	-	-	-	-	100,000
Building Acquisitions	Facilities	12	100,000	100,000	100,000	100,000	100,000	100,000	100,000	700,000
Totals			\$ 26,475,560.00	\$ 9,231,960.00	\$ 5,205,060.00	\$ 5,235,060.00	\$ 5,235,060.00	\$ 3,153,162.00	\$ 3,153,162.00	\$ 57,689,024.00

Chapter 5 – Sheriff’s Office

Existing Sheriff’s Office Space

The 2022 inventory of Sheriff’s office space is 22,902 square feet. This inventory is shown below.

Table 9. Existing Sheriff’s Facilities

Site No.	Facility Name	Square Feet
1	Public Safety Building (311 Grand Ave)	15,102
2	Minimum Security Correction Facility (2030 Division St.)	6,000
3	Laurel Substation (194 W. Laurel Rd.)	1,800
	TOTAL	22,902

Notes: The Sheriff’s Office also has storage facilities at various locations in Whatcom County. The County has two mobile homes and an old detention facility in Point Roberts. The resident deputies operate out of their homes or utilize space at the U.S. Customs office at the border. Deputies are able to utilize an office at the Kendall Fire hall when working in the area.

Future Needs

The Whatcom County Comprehensive Plan does not contain a level of service standard for Sheriff’s Office facilities. Rather, Comprehensive Plan Policy 4D-2 is to:

Maintain Sheriff’s Office adult corrections facilities and headquarters to provide a safe environment for the community, staff and inmates. . . Existing facilities may be expanded, remodeled, and/or new facilities developed in response to changing need.

Proposed Improvement Projects

A new Sheriff’s Office and a new public safety radio system are planned within the next six years. The comprehensive radio system update will include infrastructure (such as towers), radio systems in buildings, radios in vehicles, and hand-held radios. These improvements will cost approximately \$12 million, as shown below.

Table 10. Sheriff’s Office Projects

Project # and Name	Funding Source	2025	2026	2027	2028	2029	2030	2031	
Sheriff’s Office Debt Service	Facilities	-	-	1,718,963	1,718,963	1,718,963	1,718,963	1,718,963	8,594,815
Sheriff Impound Storage Lot	1	92,000	-	-	-	-	0	0	92,000
Public Safety Radio System	3	1,782,000	1,028,500	275,000	275,000	-	0	0	3,360,500
Totals		1,874,000	1,028,500	1,993,963	1,993,963	1,718,963	1,718,963	1,718,963	12,047,315

Funding Sources

1. Real Estate Excise Tax (REET)
2. Debt
3. Grants
4. Economic Development Investment (EDI) Fund
5. Fire Districts/Departments
6. Countywide Emergency Medical Services (EMS) Fund

Chapter 6 – Emergency Management

Existing Emergency Management Space

The 2022 inventory of Sheriff’s Office, Division of Emergency Management space is 24,000 square feet, located at the Whatcom Unified Emergency Coordination Center (WUECC). Rented by and shared between both Whatcom County and the City of Bellingham, the WUECC is comprised of 2,000 square feet of office space and an additional 22,000 square feet of support facilities (used for meetings, training, exercises, and during emergencies). The WUECC serves as the Emergency Operations Center for both the County and the City.

Table 11. Existing Emergency Management/EOC Facilities

Site No.	Facility Name	Square feet
1	Whatcom Unified Emergency Coordination Center 3888 Sound Way, Bellingham	24,000

Future Needs

The Whatcom County Comprehensive Plan does not contain a level of service standard for emergency management facilities. Rather, Comprehensive Plan Policy 4D-4 is to:

Maintain adequate facilities for daily emergency management activities and, during an emergency or disaster, for the emergency operations center. The facilities will provide sufficient space for activities relating to emergency/disaster planning, mitigation, response and recovery. Existing facilities may be expanded, remodeled, and/ or new facilities developed in response to changing need.

The County will budget for improvements to such facilities as needed.

Proposed Improvement Projects

There are no emergency management capital improvement projects planned over the next six years.

Chapter 7 – Adult Corrections

Existing Jail Facilities

The County’s Main Jail was designed and originally built to hold 148 beds, although with some limited remodeling and the use of double bunking, the operational capacity of the main jail should be for the use of 212 beds. Whatcom County completed construction of a 150 bed minimum security correction facility on Division St. in 2006. The Main Jail is located in the Public Safety Building next to the County Courthouse in downtown Bellingham and the Minimum Security Correction Facility is located in the Bakerview Rd. industrial area.

Table 12. Existing Jail Beds

Site No.	Facility Name	Jail Beds
1	Public Safety Building (311 Grand Ave.)	211
2	Jail Work Center (2030 Division St.)	<u>148</u>
	TOTAL	359

Note: As the result of the COVID-19 pandemic, the jail is operating at a reduced capacity to provide for social distancing until such time as the pandemic is declared under control by the Washington State Department of Health. Due to the mix of offenders, a firm population cap has not been set, but is anticipated to remain at approximately 150 offenders at the Downtown Jail.

Future Needs

There continues to be serious concerns among law and justice officials related to jail facility needs in the community. That need has been documented over the years, with the most recent being the *Building Assessment Studies and Cost Estimates for Capital Improvements at the Jail (Public Safety Building)* (Sept. 2017).

The Whatcom County Comprehensive Plan does not contain a level of service standard for jail facilities. Rather, Comprehensive Plan Policy 4D-2 is to:

Maintain Sheriff’s Office adult corrections facilities and headquarters to provide a safe environment for the community, staff and inmates. The number of jail beds in adult corrections facilities will be determined after review of multiple factors, including projected population growth, State sentencing laws, alternative programs, treatment diversion programs, early release programs, the need to

separate violent inmates, the need to separate inmates by gender, the need to separate inmates by other classification considerations, average length of stay, peak inmate populations and available funding. Existing facilities may be expanded, remodeled, and/ or new facilities developed in response to changing need.

Proposed Improvement Projects

The adult corrections projects planned over the next six years are shown below. These improvements will cost approximately \$151 million, as shown below.

Table 13. Adult Corrections Projects

Project # and Name	Department	Funding Source	2025	2026	2027	2028	2029	2030	2031	Total
Jail Facilities Ongoing Maintenance	Facilities	1	200,000	200,000	200,000	200,000	200,000	200,000	200,000	1,400,000
New Jail	Facilities	1	4,715,000	25,340,000	59,340,000	59,340,000	-	-	-	148,735,000
Totals			4,915,000	25,540,000	59,540,000	59,540,000	200,000	200,000	200,000	150,135,000

Funding Sources
 1. Other Sources (Grants, Special Revenue Funds, Donations)
 2. New Sales Tax
 3. Jail Fund
 4. General Fund

Chapter 8 – Juvenile Detention

Existing Juvenile Detention Facilities

The 2022 inventory of County juvenile detention facilities includes 32 beds serving the countywide population. The juvenile detention facility is located on the sixth floor of the County Courthouse at 311 Grand Avenue.

Table 14. Existing Juvenile Detention Beds

Site No.	Facility Name	Beds
1	County Courthouse (311 Grand Ave.)	32

Future Needs

The Whatcom County Comprehensive Plan does not contain a level of service standard for juvenile detention facilities. Rather, Comprehensive Plan Policy 4D-3 is to:

Maintain juvenile detention facilities and alternative corrections programs to provide safe and secure methods to provide accountability and support for minors who break the law. Existing facilities may be expanded, remodeled, and/or new facilities developed in response to changing need.

The County will budget for improvements to such facilities as needed.

Proposed Improvement Projects

There are no juvenile detention capital improvement projects planned in the six-year planning period.

Chapter 9 – Transportation

Existing Roads

The 2023 inventory shows a total of 934.86 miles of County roads.

Future Needs

The Whatcom County Comprehensive Plan sets level of service (LOS) standards for County roads. Future traffic and the level of service for roads can be forecasted using computer-modeling software. The Whatcom Council of Governments forecasts future traffic utilizing a computer transportation model. This modeling effort will inform transportation planning in Whatcom County.

Whatcom County accomplishes planning for County road improvements by approving a Six-Year Transportation Improvement Program each year, as required by RCW 36.81.121.

Proposed Improvement Projects

The Whatcom County Six-Year Transportation Improvement Program includes preliminary planning for one proposed new road project:

- Lincoln Road extension (between Harborview Road and Blaine Road).

While this project is on the Six-Year Transportation Improvement Program, construction is not anticipated within the six-year planning period. Rather, preliminary engineering to determine project feasibility may be initiated within this time frame. The Transportation Improvement Program includes 4 projects over \$5 million:

- North Lake Samish Rd. Bridge Replacement (\$12 million); and
- Birch Bay Lynden Rd/California Ck Culvert Replacement (\$7.1 million); and
- Jackson Road/Terrell Creek Bridge Replacement (\$5.7 million); and
- East Smith Rd / Hannegan Rd intersection improvements (\$5.2 million).

The Six-Year Transportation Improvement Program contains a variety of other projects, including flood damage repair, bridge replacements, intersection improvements, road reconstruction, multimodal and fish

passage projects.

Existing Ferry Facilities

Whatcom County currently has one ferry vessel serving Lummi Island. The ferry runs between Lummi Island and Gooseberry Point on a daily basis.

Future Needs

Whatcom County Comprehensive Plan Policy 6A-1 establishes the following LOS standard for the ferry:

Public Works shall establish a performance metric to monitor service performance of the Lummi Island ferry system. This will include a week long count at least every quarter in both sailing directions. This count will include percent capacity, on-time performance, and the number of vehicles left in the queue. The count shall be compared to the desired level of service of no more than two sailing waits during average weekday peak periods.

The Special Programs Manager for the County Public Works Department confirmed that the ferry service currently meets the LOS standard. Whatcom County accomplishes planning for the ferry by approving a Fourteen-Year Ferry Capital Program, as required by RCW 36.54.015.

Proposed Improvement Projects

The Six-Year Transportation Improvement Program includes replacement of the Whatcom Chief ferry (\$52.5 million budgeted) and terminal modifications. It also includes engineering for relocation of the ferry terminal.

Total Transportation Costs

Transportation projects, including road and ferry projects, total approximately \$140 million over the six-year planning period. This includes almost \$67 million in local funds, with the remainder coming from the State and Federal governments.

Chapter 10 – Stormwater Facilities

Existing Stormwater Management Facilities

The Public Works Department is responsible for design, engineering, and construction of county-owned stormwater facilities. Many stormwater facilities are road-related stormwater conveyance systems such as culverts and ditches on and adjacent to county roads. Others are off right-of-way facilities that control storm flows and improve water quality.

In response to increasing federal and state mandates to manage stormwater and the public’s desire to improve stewardship of sensitive watersheds, Whatcom County established a Stormwater Division in 2005. The Stormwater Division is responsible for planning, designing, engineering, and construction of stormwater facilities. Inventories of existing stormwater facilities are maintained by the Public Works Department. The Engineering Services Division maintains an inventory of all road-related facilities. The Stormwater Division maintains an inventory of public and private stormwater facilities in the area covered by the County’s NPDES Phase II permit for Municipal Separate Storm Sewer Systems. This inventory includes ditches, culverts, catch basins, vaults, ponds, and swales. Completed Stormwater Construction Projects since the Stormwater Division was created in 2005 are listed below.

Table 15. Completed Stormwater Construction Projects Since 2005

Existing Site No.	Watershed	Facility Name	Year Completed
1	Lake Whatcom	Geneva Stormwater Retrofits	2006
2	Lake Whatcom	Cable Street Reconstruction & Stormwater Improvements	2007
3	Lake Whatcom	Lahti Drive Stormwater Improvements	2010
4	Lake Whatcom	Silver Beach Creek Improvements - Brownsville Drive to E. 16th Place	2011
5	Lake Whatcom	Silver Beach Creek Improvements - West Tributary	2012
6	Lake Whatcom	Coronado-Fremont Stormwater Improvements	2014
7	Lake Whatcom	Cedar Hills-Euclid Stormwater Improvements	2016
8	Lake Whatcom	Agate Bay Improvements-Phase 1 & 2	2018-2019
9	Lake Whatcom	Northshore/Edgewater Stormwater Improvements	2020
10	Lake Whatcom	Silver Beach Creek Phase 1-Woodlake	2021



Figure 1. Lake Whatcom Cedar Hills-Euclid Stormwater Improvements

Whatcom County Public Works regularly seeks and is awarded grant money that contributes to the design and construction of these stormwater projects that improve water quality through treatment systems and stream stabilization.

Future Needs

An increasing emphasis on the protection of sensitive watersheds has resulted in the adoption of comprehensive stormwater plans, including plans for Lake Whatcom and Birch Bay. The adopted plans identify work towards planning, design, engineering, and construction of capital projects intended to address stormwater issues.

Whatcom County and the Washington State Department of Ecology collaborate on the Swift Creek flood control and sediment management project. Whatcom County has developed an action plan and will continue to implement the plan with state funds.

Proposed Improvement Projects

Stormwater improvement projects totaling approximately \$18.2 million are proposed over the six-year planning period as shown below. These costs would be paid by Real Estate Excise Tax (REET), Lake Whatcom Stormwater Utility, grants, Road fund, funding from the Birch Bay Watershed and Aquatic Resources Management District (BBWARM), Flood fund, and Federal Emergency Management Agency (FEMA) funds.

Table 16. Stormwater Projects

No.	Project Name	Funding	2025	2026	2027	2028	2029	2030	2031	Totals
1	Geneva Bioretention Pilot Project	1,3	45,000	-	-	-	-	-	-	45,000
2	Eagleridge Stormwater Improvements	1,3	500,000	-	-	-	-	-	-	500,000
3	Austin Court Stormwater Improvements	1,3	-	450,000	-	-	-	-	-	450,000
4	Cedar Hills	1,3	205,000	-	-	-	-	-	-	205,000
5	Strawberry Point/Lake Whatcom Blvd Stormwater Improvements	1,3	30,000	335,000	805,000	-	-	-	-	1,170,000
6	Geneva St and Lake Louise Culvert Replacement	1,3	-	-	70,000	200,000	-	-	-	270,000
7	Lake Whatcom Blvd Media Filter Drain	1,3	-	-	205,000	-	630,000	-	-	835,000
8	Sudden Valley Stormwater Improvements 2	1,3	-	10,000	-	210,000	-	1,040,000	-	1,260,000
9	Lake Whatcom Blvd Water Quality Vault	1,3	-	-	-	-	225,000	-	800,000	1,025,000
10	Viewhaven Lane Water Quality & Conveyance Improvements	3	-	-	-	-	115,000	100,000	-	215,000
11	Charel Terrace Stormwater Outfall Repair - Temporary and Perma	3	520,000	-	-	-	-	-	-	520,000
12	Semiahmoo Drive South and Outfall Improvements	3	985,000	-	-	-	-	-	-	985,000
13	Nomar Place Stormwater Improvements	1,3	-	860,000	-	-	-	-	-	860,000
14	Lora Lane Drainage and Tide Gate Modifications	1,3	1,430,000	-	-	-	-	-	-	1,430,000
15	Birch Point Road & Outfall Improvements	1,3	320,000	-	650,000	-	-	-	-	970,000
16	Richmond Park Stormwater Improvements	1,3	-	700,000	-	1,900,000	-	-	-	2,600,000
17	Roger's Slough Drainage Improvements	1,3	-	-	750,000	-	2,100,000	-	-	2,850,000
18	Birch Bay Village Stormwater Improvements	1,3	-	-	-	350,000	-	910,000	-	1,260,000
19	Bay Ridge Estates Stormwater Improvements	1,3	-	-	-	-	220,000	-	550,000	770,000
			4,035,000	2,355,000	2,480,000	2,660,000	3,290,000	2,050,000	1,350,000	18,220,000
	Funding Sources									
1	Reet II									
2	EDI									
3	Other Sources (Grants, Special Revenue Funds, Donations)									
4										

Chapter 11 – Total Costs

Total Costs for the six-year planning period are shown below.

Table 17. Total Costs for the Six-Year Planning Period

	Total Costs 2023-2028	Percent of Total Costs
Parks, Trails, and Activity Centers	49,210,712	11.42%
Maintenance and Operations	3,740,000	0.87%
General Government Buildings and Sites	57,689,024	13.38%
Sheriff's Office	12,047,315	2.79%
Emergency Management	0	0.00%
Adult Corrections	150,135,000	34.83%
Juvenile Detention	0	0.00%
Transportation	140,000,000	32.48%
Stormwater Facilities	18,220,000	4.23%
TOTAL	<u>431,042,051</u>	100.00%

The County plans to undertake capital improvement projects costing over \$431 million between 2025 and 2031, which will be financed with a combination of local, state, federal, and other funding sources.

Exhibit A

Six-Year Capital Improvement Program For Whatcom County Facilities 2023-2028

Table of Contents

Chapter 1 – Introduction.....	3
Growth Management Act Requirements.....	3
Charter Provisions and the County Budget.....	4
Chapter 2 – Parks, Trails, and Activity Centers.....	5
Parks.....	5
Future Needs.....	7
Proposed Improvement Projects.....	7
Trails.....	7
Future Needs.....	9
Proposed Improvement Projects.....	9
Activity Centers.....	9
Future Needs.....	10
Proposed Improvement Projects.....	10
Six-Year Capital Improvement Program.....	10
Chapter 3 – Maintenance and Operations.....	13
Existing Maintenance and Operations Space.....	13
Future Needs.....	13
Proposed Improvement Projects.....	13
Chapter 4 – General Government Buildings and Sites.....	14
Existing Office Space.....	14
Future Needs.....	14
Proposed Improvement Projects.....	15
Chapter 5 – Sheriff’s Office.....	16
Existing Sheriff’s Office Space.....	16

Future Needs	16
Proposed Improvement Projects.....	16
Chapter 6 – Emergency Management	18
Existing Emergency Management Space.....	18
Future Needs	18
Proposed Improvement Projects.....	18
Chapter 7 – Adult Corrections.....	19
Existing Jail Facilities	19
Future Needs	19
Proposed Improvement Projects.....	20
Chapter 8 – Juvenile Detention	21
Existing Juvenile Detention Facilities	21
Future Needs	21
Proposed Improvement Projects.....	21
Chapter 9 – Transportation	22
Existing Roads	22
Future Needs	22
Proposed Improvement Projects.....	22
Existing Ferry Facilities	23
Future Needs	23
Proposed Improvement Projects.....	23
Total Transportation Costs.....	23
Chapter 10 – Stormwater Facilities.....	24
Existing Stormwater Management Facilities	24
Future Needs	25
Proposed Improvement Projects.....	25
Chapter 11 – Total Costs.....	27

Chapter 1—Introduction

~~The Growth Management Act requires that the County’s Comprehensive Plan include a “capital facilities plan element” (RCW 36.70A.070(3)). The Whatcom County Comprehensive Plan calls for the County to develop and update the Six Year Capital Improvement Program (CIP) for County projects every two years. The main purpose of the Capital Improvement Program is to identify priority capital improvement projects and estimated costs, outline a schedule for project completion, and designate funding sources for these projects based on a review of existing and projected population and revenue conditions for the six year planning period.~~

Growth Management Act Requirements

~~According to the Growth Management Act, a county’s capital facilities plan must include five items, which are shown below.~~

~~*A. An inventory of existing capital facilities owned by public entities, showing the locations and capacities of the capital facilities.*~~

~~Current inventories of existing County capital facilities, based upon information provided by various County departments, are included in each chapter of this document.~~

~~*B. A forecast of the future needs for such capital facilities.*~~

~~Chapter 4 of the Whatcom County Comprehensive Plan establishes numerical “level of service” standards for County parks and trails and contains policies relating to other County facilities. Capital facility needs are forecasted over the six year planning period by applying the adopted level of service standards to the expected population in the year 2028 and by considering other relevant factors.~~

~~*C. Proposed locations and capacities of expanded or new capital facilities.*~~

~~General locations and capacities of proposed County facilities are indicated in this document (as applicable).~~

~~*D. At least a six year plan that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes.*~~

~~This Six Year Capital Improvement Program presents costs and funding sources for proposed County capital facilities (all figures are in 2022 dollars). There are a variety of funding sources that the County may utilize to pay for capital facilities, including real estate excise taxes (REET), sales tax, the Public Utilities Improvement Fund (also known as the Rural Sales Tax Fund, Economic Development Investment Fund or EDI Fund), Road Fund, state grants, federal grants and a variety of other sources.~~

~~E. A requirement to reassess the land use element if probable funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent.~~

~~Finally, in accordance with the Growth Management Act, a requirement to reassess the land use element of the Comprehensive Plan if probable funding falls short of meeting existing needs and to ensure consistency between plans already exists in the Comprehensive Plan (Policy 4A-4).~~

~~Charter Provisions and the County Budget~~

~~In addition to Growth Management Act provisions relating to capital facilities, Section 6.30 of the County Charter also requires the County to include a six-year capital improvement program as part of the budget. Appropriations for 2023-2024 capital projects may be included in the biennial budget or may be adopted through the supplemental budget process. Ultimate funding for capital improvement projects is subject to County Council authorization in the adopted budget. Costs identified for 2025-2028 are included for planning purposes and review of potential future needs, but not for budget authorization at this time.~~

Chapter 2—Parks, Trails, and Activity Centers

Parks

The 2022 inventory of County parks and open space areas is over 16,200 acres. This inventory is shown in Table 1 below.

Table 1. Existing Parks

Site No.	Park Name and Location	Acres
1	Alderwood Park, 3479 Willowwood Rd.	1.9
2	Bay Horizon Park, 7467 Gemini St.	68.2
3	Birch Bay Beach Park, 7930 Birch Bay Dr.	13.7
4	Birch Bay Conservancy Area, 7000 Point Whitehorn Rd.	45.0
5	Birch Bay Tidelands	151.0
6	Boulevard Park, 471 Bayview Dr.	1.4
7	Broadway Beach Access, 7497 Birch Bay Dr.	0.1
8	Cagey Road, 3130 Haxton Way	20.0
9	Camp 2 RR ROW, 3775 Camp 2 Rd.	2.3
10	Canyon Lake Community Forest, 8300 Mt. Baker Hwy.	2,266.0
11	Chuckanut Mountain Park, 745 Old Samish Rd.	987.9
12	Cottonwood Beach Access, 8191 Birch Bay Dr.	5.1
13	Deming Eagle Homestead Park, 5615 Truck Rd.	33.0
14	Dittrich Park, 319 E Lake Samish Dr.	25.2
15	Drayton Harbor Tidelands	0.3
16	Euclid Park, 1570 Euclid Ave.	2.2
17	Galbraith Mountain Access, 800 Birch Falls Dr.	20.0
18	Glacier Cemetery	0.5
19	Halverson Park, 5075 Anderson Rd.	5.6
20	Haynie Road, 2876 Haynie Rd.	1.9
21	Hegg, 3845 Blue Canyon Rd.	3.5
22	Hovander Homestead Park and Tennant Lake, 5299 Nielsen Rd.	333.4
23	Jackson Rd. Beach Access, 7465 Birch Bay Dr.	0.2
24	Jensen Family Forest Park, 8051 Stein Rd.	21.5
25	Josh VanderYacht Park, 4106 Valley Highway	2.0
26	Kickerville Road, 4110 Bay Rd.	2.6
27	Lake Whatcom Park, 3220 North Shore Rd.	4,853.0
28	Lighthouse Marine Park, 811 Marine Dr. in Point Roberts	20.5
29	Lily Point Marine Park, 2315 APA Rd. in Point Roberts	262.1
30	Little Squalicum Park, 640 Marine Dr.	12.7
31	Lookout Mountain Forest Preserve, 2537 Lake Louise Rd.	4,682.8
32	Lummi Island Beach Access, 2198 N. Nugent Rd.	0.2
33	Maple Beach Tidelands	100.9
34	Maple Creek Park, 7842 Silver Lake Rd.	73.1
35	Maple Falls Community Park, 7470 Second St.	4.2
36	Monument Park, 25 Marine Dr. in Point Roberts	6.9
37	Nugent's Corner River Access, 3685 Mt. Baker Highway	14.2
38	Ostrom Conservation Site, 4304 South Pass Rd.	38.6
39	Phillips 66 Soccer Park, 5238 Northwest Dr.	36.6
40	Point Whitehorn Marine Reserve, 6770 Koehn Rd.	54.1
41	Redwood Park, 3310 Redwood Ave.	0.3
42	Samish Park, 673 N. Lake Samish Dr.	30.6
43	Samish Way, 5170 Samish Way	1.4
44	Semiahmoo Park, 9261 Semiahmoo Parkway	291.9
45	Silver Lake Park, 9006 Silver Lake Rd.	413.4
46	South Fork Park, 1530 Mosquito Lake Rd.	642.5
47	South Lake Whatcom Park, 4144 S Bay Dr.	79.5
48	South Pass East, 4900 South Pass Rd.	0.5
49	South Pass West, 4190 South Pass Rd.	0.4
50	Squires Lake Park, 2510 Nulle Rd.	90.1
51	Stimpson Family Nature Reserve, 2076 Lake Louise Rd.	400.4
52	Sunnyside Landing, 2870 Northshore Rd.	6.3
53	Sunset Beach, 2580 West Shore Dr. on Lummi Island	7.0
54	Sunset Farm Park, 7977 Blaine Rd.	69.5
55	Ted Edwards Park, 4150 Oriental Ave.	3.5
56	Teddy Bear Cove Park, 1467 Chuckanut Dr.	11.2
57	Terrell Creek Access, 7417 Jackson Rd.	0.5
58	Terrell Creek Heron Rookery, 7065 Jackson Rd.	15.0
59	Terrell Creek Point, 7685 Birch Bay Dr.	6.7
60	Turner-Jaeger, 1975 Lake Louise Rd.	3.8
61	Welcome Bridge River Access, 5585 Mosquito Lake Rd.	0.6
TOTAL		16,249.5

~~Pursuant to RCW 36.87.130, there are also public access properties on right of way ends that intersect shorelines. Whatcom County also holds public access easements for recreational purposes on certain lands owned by the City of Lynden, Whatcom Land Trust and the Lummi Island Heritage Trust.~~

Future Needs

~~A level of service of 9.6 acres of developed parkland for every 1,000 people in the County was adopted in the Whatcom County Comprehensive Plan. The County's existing parks will meet the adopted level of service over the six-year planning period. However, the County is proposing park planning and capital improvement projects to increase service levels at existing park facilities. This includes developing the Birch Bay Beach Park to meet the longer term needs of a growing population. It also includes a robust update of the County's Comprehensive Parks, Recreation, and Open Space plan to reflect current community needs and development of key park-specific plans to guide coordinated development of future park infrastructure and amenities.~~

Proposed Improvement Projects

~~Park improvement projects, totaling approximately \$26.9 million, are proposed over the six-year planning period (see Table 4). Priorities include funding for environmental cleanup efforts associated with lead-contaminated soils at Plantation Rifle Range, and improved shower and restroom facilities at Silver Lake Park, and restroom facilities at the Birch Bay Beach Park.~~

Trails

~~Whatcom County currently has over 79 miles of trails in various locations throughout the County. This inventory is shown in Table 2 below.~~

Table 2. Existing Trails

Site No.	Trail Name and Location	Miles
1	Bay Horizon/Bay Crest Trail	0.75
2	Bay to Baker Maple Falls-Glacier	4.00
3	Birch Bay Drive and Pedestrian Facility	1.58
4	Canyon Lake Community Forest	7.01
5	Chuckanut Mountain / Pine & Cedar Lakes	16.60
6	Deming Homestead Eagle Park, Truck Rd.	0.30
7	Hovander Homestead Park	3.20
8	Interurban, Chuckanut area	3.15
9	Jensen Family Forest Park, Stein Rd. and Birch Bay Lynden Rd.	0.67
10	Lake Whatcom Park	12.60
11	Lily Point, Point Roberts	2.00
12	Lookout Mountain Forest Preserve	6.80
13	Maple Creek Park, 7842 Silver Lake Rd., Maple Falls	1.28
14	Monument Park, 25 Marine Dr. in Point Roberts	0.35
15	Phillips 66 Soccer Park Trail (Used to be Northwest Soccer Park), Smith	0.38
16	Ostrom Conservation Site, 4304 South Pass Rd.	0.56
17	Point Whitehorn Marine Reserve, 6770 Koehn Rd, Birch Bay	0.81
18	Samish Park, 673 N. Lake Samish	1.38
19	Semiahmoo Park	0.63
20	Silver Lake Park, 9006 Silver Lake Rd.	5.28
21	South Fork Park	2.30
22	Squires Lake, 2510 Nulle Rd.	2.88
23	Stimpson Family Nature Reserve, 2076 Lake Louise Rd.	4.02
24	Sunset Farm, 7977 Blaine Rd.	0.56
25	Teddy Bear Cove	0.33
TOTAL		79.42

Future Needs

~~A level of service of 0.60 miles of trails for every 1,000 people in the County was adopted in the Whatcom County Comprehensive Plan. With projected population growth in Whatcom County over the next six years, about 74 additional miles of trails would be needed by the year 2028 to serve the people of Whatcom County.~~

Proposed Improvement Projects

~~Trail improvement projects and associated facilities, totaling approximately \$2.5 million dollars, are proposed over the six year planning period (see Table 4). These projects would add up to 32.1 trail miles (the South Fork Park trails project would add 5.5 miles, the Lake Whatcom trails project would add up to 20 miles, Governor's Point 2.6 and Bay to Baker Trail 4.0).~~

~~While there is a shortfall in trail miles provided by the County, there are other trails that are owned/maintained by a variety of agencies or jurisdictions that provide recreational opportunities for Whatcom County residents and visitors.~~

Activity Centers

~~There are currently 13 activity centers that provide a variety of year round programs for various age groups. The activity center inventory is shown in Table 3 below.~~

Table 3. Existing Activity Centers

Site No.	Activity Center Name and Location
1	Bay Horizon, 7511 Gemini Street
2	Bellingham Senior Activity Center, 315 Halleck Street
3	Blaine Community Senior Center, 763 G Street
4	East Whatcom Regional Resource Center, 8251 Kendall Rd.
5	Everson Senior Center, 111 W. Main Street
6	Ferndale Senior Center, 1999 Cherry Street
7	Lynden Senior Center, 401 Grover Street
8	Plantation Rifle Range, 5102 Samish Way
9	Point Roberts Senior Center, 1487 Gulf Road
10	Roeder Home, 2600 Sunset Dr.
11	Sumas Senior Center, 461 2nd Street
12	Van Zandt Community Hall, 4106 Valley Highway
13	Welcome Senior Center, 5103 Mosquito Lake Rd.

Note: The Blaine, Everson, Lynden and Sumas Centers are owned by these respective cities. The Point Roberts Center is owned by the Point Roberts Park District. Whatcom County provides and/or contracts for senior activities and recreational programming at these centers.

Future Needs

~~The Whatcom County Comprehensive Plan does not contain a level of service standard for activity centers. Rather, Comprehensive Plan Policy 4F-5 states:~~

~~Continue to provide and support activity centers, including senior centers, to serve the growing population of Whatcom County by the following methods, as needed, which are listed in priority order: (1) implementing programming changes, (2) adding space to existing centers, and/or (3) establishing new centers.~~

Proposed Improvement Projects

~~Seven activity center projects are proposed. These projects will cost about \$9.2 million within the six-year planning period (see Table 4).~~

Six-Year Capital Improvement Program

~~The park, trail, and activity center projects planned over the next six years are shown below.~~

Table 4. Park, Trail, and Activity Center Projects

Project # and Name	Funding							Totals	
	Source	2023	2024	2025	2026	2027	2028		
1 Aiston Preserve - Access Improvements	2		50,000					50,000	Park
2 Alderson Road End Day-Use Improvements	5		40,000					40,000	Park
3 Bay Horizon Park - Hostel Demolition	2			493,000				493,000	Park
4 Bellingham Senior Center - Facility Renovation and HVAC Upgrades	1	94,000	772,000					866,000	Activity Ce
5 Bellingham Senior Center - Sewer Line Replacement	1		50,000					50,000	Activity Ce
6 Birch Bay Beach Park - Development	4, 6, 7			260,000	2,552,500	2,552,500		5,365,000	Park
7 Canyon Lake Community Forest - Access and Trailhead Improvements	4, 12		318,000					318,000	Park
8 EWRRRC - Building and Site Improvements	1, 13		475,000					475,000	Activity Ce
9 Ferndale Senior Center - HVAC Replace & Upgrade	1				335,000			335,000	Activity Ce
10 Governor's Point - Acquisition and Trailhead Development	1		100,000					100,000	Park
11 Hovander Homestead Park - Access Improvements	2			250,000	225,000	1,925,000		2,400,000	Park
12 Hovander Homestead Park - Barn Paintworks	2	147,400						147,400	Park
13 Hovander Homestead Park - Flood Repair & Mitigation Improvements: Park	2,3			80,000	182,000			262,000	Park
14 Hovander Homestead Park - Maintenance Shop Facility Programming	2	65,000	65,000					130,000	Park
15 Hovander Homestead Park - Master Plan	4, 6, 12		275,000					275,000	Park
16 Hovander Homestead Park - Picnic Shelters	2			66,700	374,050			440,750	Park
17 Hovander Homestead Park - Rental Residence Demolition	2		55,000					55,000	Park
18 Hovander Homestead Park - Tennant Lk Interpretive Ctr Remodel	2,3			67,000	437,500			504,500	Park
19 Lake Whatcom Watershed - Forest Management Plan and Implementation	2, 4, 9		100,000					100,000	Park
20 Lake Whatcom Park - Hertz Trail Capital Maintenance	2				353,500			353,500	Trail
21 Lake Whatcom Park - Trail Development	2			392,150	264,500	241,500	189,750	1,087,900	Trail
22 Lake Whatcom Park - Trailhead Improvements	2			500,000	3,339,000			3,839,000	Park
23 Lighthouse Marine Park - Park Improvements	4, 5		150,000					150,000	Park
24 Lighthouse Marine Park - Siding and Roofing	2	168,350						168,350	Park
25 Lily Point Marine Park - Parking Improvements	2		254,900					254,900	Park
26 Lookout Mt Forest Preserve - Parking Improvements	2					124,100		124,100	Park
27 Lookout Mt Forest Preserve - Road System Storm Damage Repairs	2,3,4	100,016	560,000					660,016	Park
28 Maple Falls Community Park - Trailhead Improvements	2, 6, 7, 8					200,000	825,000	1,025,000	Park
29 Miscellaneous Parks Capital Improvements	2	150,000	150,000	150,000	150,000	150,000	150,000	900,000	Park
30 Multi-Modal Regional Trail Planning, Design, and Implementation	2, 5, 10		200,000					200,000	Trail
31 Park Headquarters - Administrative Offices and Campus Improvements	1	93,000	752,300	295,100				1,140,400	Park
32 Parks Construction Supervisor	2	50,000	50,000	50,000	50,000	50,000	50,000	300,000	
33 Plantation Indoor Range - Targeting System Replacement	1, 8			100,000	360,000			460,000	Activity Ce
34 Plantation Rifle Range - Outdoor Range Lead Remediation	1, 8	700,000	5,800,000					6,500,000	Activity Ce
35 Property Acquisition (Acme/Bellingham to Baker Trail)	5		300,000					300,000	Park
36 Samish Park - Parking/Vehicular Circulation Improvements	2					75,000	250,000	325,000	Park
37 Samish Park - Pedestrian Trail Bridge Replacement	2		35,000	117,900				152,900	Park
38 Semiahmoo Park - Sewage Pump Replacement	2		50,000					50,000	Park
39 Silver Lake Park - Cabin & Lodge Renovations	2, 8		121,242	62,458				183,700	Park
40 Silver Lake Park - Lodge Roof Replacement	2	231,000						231,000	Park
41 Silver Lake Park - Residence Demolition	2	61,800						61,800	Park
42 Silver Lake Park - Shower & Restroom Buildings	2	1,850,000	200,000	1,000,000	1,150,000			4,200,000	Park
43 South Fork Park - Carrasco Property Structure Demolition, Access control, an	2, 6		865,000					865,000	Park
44 South Fork Park - Loop Trail Improvements	2					276,600		276,600	Park
45 South Fork Park - Nessel Farm Improvements	6			152,500	845,000			997,500	Park
46 South Fork Park - Bridges and Connector Trail	2			132,500	149,200	306,800	273,800	862,300	Trail
47 Stimpson Family Nature Reserve - Parking Lot Improvements	2	92,086	200,000					292,086	Park
48 Sumas Senior Center - Roof Replacement	1	25,000						25,000	Park
49 Van Zandt Community Hall Renovation	2, 8		100,000	452,000				552,000	Activity Ce
Total		3,827,652	12,088,442	4,621,308	10,767,250	5,624,900	2,015,150	38,944,702	

Funding Sources:

- 1. Real Estate Excise Tax (REET 1)
- 2. Real Estate Excise Tax (REET 2)
- 3. Federal Emergency Management Agency (FEMA)
- 4. Parks Special Revenue Fund
- 5. Conservation Futures Funds
- 6. Donations
- 7. Lodging Tax (Hotel-Motel Tax)
- 8. Grants
- 9. Whatcom Policy Group
- 10. County Road Fund
- 11. Transportation Benefit District
- 12. General Fund
- 13. ARPA
- 14. EDI

Chapter 3—Maintenance and Operations

Existing Maintenance and Operations Space

The 2022 inventory of maintenance & operations/facilities management space is 70,681 square feet. This inventory is shown below.

Table 5. Existing Space

Site No.	Facility Name	Square feet
1	Central Shop, 901 W. Smith Rd. (Maintenance and Operations)	35,773
2	3720 Williamson Way (Facilities Management)	31,248
3	Minimum Security Correction Facility - 2030 Division St. (Facilities Management Storage)	3,660
TOTAL		70,681

Future Needs

The Whatcom County Comprehensive Plan does not contain a level of service standard for maintenance and operations. The County will budget for improvements to such facilities as needed.

Proposed Improvement Projects

Improvement and maintenance projects on existing buildings and sites over the six-year planning period total over \$2.6 million as shown below.

Table 6. Maintenance and Operations Projects

Project # and Name	Funding Source	2023	2024	2025	2026	2027	2028	Total Cost
1 Central Shop Stormwater Project - 901 W. Smith Rd.	1	500,000	500,000					1,000,000
2 Road Oil Tank Removal - 901 W. Smith Rd.	1	270,000						270,000
3 Road Salt Storage - 901 W. Smith Rd.	1	150,000						150,000
4 Truck Shed Structural Repair - 901 W. Smith Rd.	1	160,000						160,000
5 Underground Fuel Tank Removal - 901 W. Smith Rd.	1	250,000	50,000	10,000				310,000
6 Vactor Building - 901 W. Smith Rd.	1	546,509						546,509
7 Water Line Extension/Anti-Ice Prep - 901 W. Smith Rd.	1	185,000						185,000
TOTAL		2,061,509	550,000	10,000	0	0	0	2,621,509

Funding Sources

1. Road Fund

~~Chapter 4—General Government Buildings and Sites~~

~~Existing Office Space~~

~~The 2024 inventory of County government office space is 313,395 square feet at eleven locations. This inventory is shown below.~~

~~Table 7. Existing County Government Office Space~~

Site No.	Facility Name	Square feet
1	Civic Center Annex (322 North Commercial)	30,000
2	Central Plaza Building (215 N. Commercial)	10,307
3	County Courthouse (311 Grand Avenue)	178,476
4	Lottie St. Annex (316 Lottie St.)	2,533
5	509 Girard St.	13,189
6	3373 Mt. Baker Highway	2,110
7	1500 N. State St.	20,045
8	3720 Williamson Way	9,189
9	Unity Street Rental Office Property	2,831
10	Northwest Annex (5280 Northwest Dr.)	20,265
11	Crisis Stabilization Center (2026 Division St.)	24,450
TOTAL		313,395

~~Note: The County also rents 4,820 of building space at 600 Dupont St.~~

~~Future Needs~~

~~The Whatcom County Comprehensive Plan does not contain a level of service standard for general government buildings. The County will budget for improvements to such facilities as needed.~~

~~Proposed Improvement Projects~~

~~Improvement and maintenance projects on existing buildings and sites over the six year planning period total approximately \$85.4 million as shown below.~~

Table 8. Government Building and Site Projects

Project # and Name	Funding Source	2023	2024	2025	2026	2027	2028	Totals
1 Misc. Courthouse Maintenance Projects	1,2	450,000						450,000
2 Elevator Replacements (multiple locations)	4, 5, 7	410,000	460,000	510,000	560,000			1,940,000
3 NW Annex Campus	3, 5, 8	26,950,000	550,000					27,500,000
4 Courthouse Exterior Project	1, 2	4,077,100	3,238,000	4,536,000	2,463,000			14,314,100
5 Prox Lock Control Panel Replacement (multiple locations)	5	178,000						178,000
6 Way Station Improvements - State Street	5, 6, 9	9,281,000						9,281,000
7 Girard Street Improvements	1, 2				100,000	1,000,000	9,000,000	10,100,000
8 Interior Painting, Carpets, Asphalt Repairs, ADA (multiple locations)	1	205,000	205,000	205,000	205,000	205,000	205,000	1,230,000
9 County Building Maintenance	1, 2	100,000	100,000	100,000	100,000	100,000	100,000	600,000
10 Alternative Response Treatment Facility	6, 10	926,000	700,000					1,626,000
11 Construction Coordinator Wages/Benefits	1	10,000	10,000	10,000	10,000	10,000	10,000	60,000
12 Americans with Disabilities Act Courtroom Improvements (311 Grand Ave)	1	250,000	250,000					500,000
13 Electric Vehicle Charging Stations (multiple locations)	1, 2, 6		50,000	250,000	250,000			550,000
14 Public Defender 1st Floor Improvements (215 N. Commercial)	1, 2	20,000	300,000					320,000
15 Assessor Office Tenant Improvements (311 Grand Ave)	1, 2	20,000	300,000					320,000
16 Construction of 23-Hour Crisis Relief Center (Division St)	1, 2, 6, 10, 11, 12		750,000	12,000,000	3,250,000			16,000,000
17 Security & Surveillance Equipment (Main Jail, Jail Work Center, & Juvenile Detention)	1		200,000	150,000				350,000
18 New Generator for WUECC (3888 Sound Way)	1, 2		40,000					40,000
19 5th Superior Court and IT tenant Improvement	1		820,000					820,000
Totals		42,877,100	7,973,000	17,761,000	6,938,000	1,315,000	9,315,000	86,179,100

Funding Sources

1. Real Estate Excise Tax (REET)
2. Economic Development Investment (EDI) Fund
3. Debt
4. Road Fund
5. Project Based Budget
6. Grants
7. General Fund
8. Reserve Funds
9. Donations
10. Behavioral Health Programs Fund
11. American Rescue Plan Act
12. Affordable Housing, Behavioral Health Facilities and Related Services Program Fund

Chapter 5—Sheriff’s Office

Existing Sheriff’s Office Space

The 2022 inventory of Sheriff’s office space is 22,902 square feet. This inventory is shown below.

Table 9. Existing Sheriff’s Facilities

Site No.	Facility Name	Square Feet
1	Public Safety Building (311 Grand Ave)	15,102
2	Minimum Security Correction Facility (2030 Division St.)	6,000
3	Laurel Substation (194 W. Laurel Rd.)	<u>1,800</u>
	TOTAL	22,902

Notes: The Sheriff’s Office also has storage facilities at various locations in Whatcom County. The County has two mobile homes and an old detention facility in Point Roberts. The resident deputies operate out of their homes or utilize space at the U.S. Customs office at the border. Deputies are able to utilize an office at the Kendall Fire hall when working in the area.

Future Needs

The Whatcom County Comprehensive Plan does not contain a level of service standard for Sheriff’s Office facilities. Rather, Comprehensive Plan Policy 4D-2 is to:

Maintain Sheriff’s Office adult corrections facilities and headquarters to provide a safe environment for the community, staff and inmates. . . Existing facilities may be expanded, remodeled, and/or new facilities developed in response to changing need.

Proposed Improvement Projects

A new Sheriff’s Office and a new public safety radio system are planned within the next six years. The comprehensive radio system update will include infrastructure (such as towers), radio systems in buildings, radios in vehicles, and hand held radios. These improvements will cost approximately \$22 million, as shown below.

Table 10. Sheriff's Office Projects

Project # and Name	Funding	2023	2024	2025	2026	2027	2028	Totals
	Source							
Sheriff's Office Relocation	1, 2				1,500,000	13,500,000		15,000,000
Public Safety Radio System	3, 4, 5, 6	1,674,808	2,007,500	1,782,000	1,028,500	275,000	275,000	7,042,808
Totals		1,674,808	2,007,500	1,782,000	2,528,500	13,775,000	275,000	22,042,808

Funding Sources

1. Real Estate Excise Tax (REET)
2. Debt
3. Grants
4. Economic Development Investment (EDI) Fund
5. Fire Districts/Departments
6. Countywide Emergency Medical Services (EMS) Fund

Chapter 6—Emergency Management

Existing Emergency Management Space

The 2022 inventory of Sheriff's Office, Division of Emergency Management space is 24,000 square feet, located at the Whatcom Unified Emergency Coordination Center (WUECC). Rented by and shared between both Whatcom County and the City of Bellingham, the WUECC is comprised of 2,000 square feet of office space and an additional 22,000 square feet of support facilities (used for meetings, training, exercises, and during emergencies). The WUECC serves as the Emergency Operations Center for both the County and the City.

Table 11. Existing Emergency Management/EOC Facilities

Site No.	Facility Name	Square feet
1	Whatcom Unified Emergency Coordination Center 3888 Sound Way, Bellingham	24,000

Future Needs

The Whatcom County Comprehensive Plan does not contain a level of service standard for emergency management facilities. Rather, Comprehensive Plan Policy 4D-4 is to:

Maintain adequate facilities for daily emergency management activities and, during an emergency or disaster, for the emergency operations center. The facilities will provide sufficient space for activities relating to emergency/disaster planning, mitigation, response and recovery. Existing facilities may be expanded, remodeled, and/ or new facilities developed in response to changing need.

The County will budget for improvements to such facilities as needed.

Proposed Improvement Projects

There are no emergency management capital improvement projects planned over the next six years.

Chapter 7 — Adult Corrections

Existing Jail Facilities

The County's Main Jail was designed and originally built to hold 148 beds, although with some limited remodeling and the use of double bunking, the operational capacity of the main jail should be for the use of 212 beds. Whatcom County completed construction of a 150-bed minimum security correction facility on Division St. in 2006. The Main Jail is located in the Public Safety Building next to the County Courthouse in downtown Bellingham and the Minimum Security Correction Facility is located in the Bakerview Rd. industrial area.

Table 12. Existing Jail Beds

Site No.	Facility Name	Jail Beds
1	Public Safety Building (311 Grand Ave.)	212
2	Jail Work Center (2030 Division St.)	<u>150</u>
TOTAL		<u>362</u>

Note: As the result of the COVID-19 pandemic, the jail is operating at a reduced capacity to provide for social distancing until such time as the pandemic is declared under control by the Washington State Department of Health. Due to the mix of offenders, a firm population cap has not been set, but is anticipated to remain at approximately 150 offenders at the Downtown Jail.

Future Needs

There continues to be serious concerns among law and justice officials related to jail facility needs in the community. That need has been documented over the years, with the most recent being the *Building Assessment Studies and Cost Estimates for Capital Improvements at the Jail (Public Safety Building)* (Sept. 2017).

The Whatcom County Comprehensive Plan does not contain a level of service standard for jail facilities. Rather, Comprehensive Plan Policy 4D-2 is to:

Maintain Sheriff's Office adult corrections facilities and headquarters to provide a safe environment for the community, staff and inmates. The number of jail beds in adult corrections facilities will be determined after review of multiple factors, including projected population growth, State sentencing laws, alternative programs, treatment diversion programs, early release programs, the need to separate violent inmates, the need to separate inmates by gender, the need to separate inmates by other classification considerations, average length of stay, peak inmate populations and available funding. Existing facilities may be expanded, remodeled, and/ or new facilities developed in response to changing need.

Proposed Improvement Projects

The adult corrections projects planned over the next six years are shown below. These improvements will cost approximately \$151 million, as shown below.

Table 13. Adult Corrections Projects

Project # and Name	Funding Source	2023	2024	2025	2026	2027	2028	Totals
1 Public Health, Safety, and Justice Facilities	1,2		10,000,000	110,000,000	30,000,000			150,000,000
2 Corrections Facilities Ongoing Maint. Project:	3, 4	200,000	200,000	200,000	200,000	200,000	200,000	1,200,000
	Totals	200,000	10,200,000	110,200,000	30,200,000	200,000	200,000	151,200,000

Funding Sources

1. Debt
 2. New Sales Tax
 3. Jail Fund
 4. General Fund
-

Chapter 8—Juvenile Detention

Existing Juvenile Detention Facilities

The 2022 inventory of County juvenile detention facilities includes 32 beds serving the countywide population. The juvenile detention facility is located on the sixth floor of the County Courthouse at 311 Grand Avenue.

Table 14. Existing Juvenile Detention Beds

Site No.	Facility Name	Beds
1	County Courthouse (311 Grand Ave.)	32

Future Needs

The Whatcom County Comprehensive Plan does not contain a level of service standard for juvenile detention facilities. Rather, Comprehensive Plan Policy 4D-3 is to:

Maintain juvenile detention facilities and alternative corrections programs to provide safe and secure methods to provide accountability and support for minors who break the law. Existing facilities may be expanded, remodeled, and/or new facilities developed in response to changing need.

The County will budget for improvements to such facilities as needed.

Proposed Improvement Projects

There are no juvenile detention capital improvement projects planned in the six-year planning period.

Chapter 9—Transportation

Existing Roads

The 2021 inventory shows a total of 935 miles of County roads.

Future Needs

The Whatcom County Comprehensive Plan sets level of service (LOS) standards for County roads. Future traffic and the level of service for roads can be forecasted using computer modeling software. The Whatcom Council of Governments forecasts future traffic utilizing a computer transportation model. This modeling effort will inform transportation planning in Whatcom County.

Whatcom County accomplishes planning for County road improvements by approving a Six Year Transportation Improvement Program each year, as required by RCW 36.81.121.

Proposed Improvement Projects

The Whatcom County Six Year Transportation Improvement Program includes preliminary planning for one proposed new road project:

- ~~Lincoln Road extension (between Harborview Road and Blaine Road).~~

While this project is on the Six Year Transportation Improvement Program, construction is not anticipated within the six year planning period. Rather, preliminary engineering to determine project feasibility may be initiated within this time frame. The Transportation Improvement Program includes two road projects over \$5 million:

- ~~North Lake Samish Rd. Bridge Replacement (\$10.6 million); and~~
- ~~East Smith Rd / Hannegan Rd intersection improvements (\$5.4 million).~~

The Six Year Transportation Improvement Program contains a variety of other projects, including flood damage repair, bridge replacements, intersection improvements, road reconstruction, and fish passage projects.

~~Existing Ferry Facilities~~

~~Whatcom County currently has one ferry vessel serving Lummi Island. The ferry runs between Lummi Island and Gooseberry Point on a daily basis.~~

~~Future Needs~~

~~Whatcom County Comprehensive Plan Policy 6A-1 establishes the following LOS standard for the ferry:~~

~~Public Works shall establish a performance metric to monitor service performance of the Lummi Island ferry system. This will include a week long count at least every quarter in both sailing directions. This count will include percent capacity, on-time performance, and the number of vehicles left in the queue. The count shall be compared to the desired level of service of no more than two sailing waits during average weekday peak periods.~~

~~The Special Programs Manager for the County Public Works Department confirmed that the ferry service currently meets the LOS standard.~~

~~Whatcom County accomplishes planning for the ferry by approving a Fourteen Year Ferry Capital Program, as required by RCW 36.54.015.~~

~~Proposed Improvement Projects~~

~~The Six Year Transportation Improvement Program includes replacement of the Whatcom Chief ferry (\$49.4 million) and terminal modifications. It also includes engineering for relocation of the ferry terminal.~~

~~Total Transportation Costs~~

~~Transportation projects, including road and ferry projects, total approximately \$114 million over the six-year planning period. This includes almost \$50 million in local funds, with the remainder coming from the State and Federal governments.~~

Chapter 10—Stormwater Facilities

Existing Stormwater Management Facilities

The Public Works Department is responsible for design, engineering, and construction of county-owned stormwater facilities. Many stormwater facilities are road-related stormwater conveyance systems such as culverts and ditches on and adjacent to county roads. Others are off right-of-way facilities that control storm flows and improve water quality.

In response to increasing federal and state mandates to manage stormwater and the public's desire to improve stewardship of sensitive watersheds, Whatcom County established a Stormwater Division in 2005. The Stormwater Division is responsible for planning, designing, engineering, and construction of stormwater facilities. Inventories of existing stormwater facilities are maintained by the Public Works Department. The Engineering Services Division maintains an inventory of all road-related facilities. The Stormwater Division maintains an inventory of public and private stormwater facilities in the area covered by the County's NPDES Phase II permit for Municipal Separate Storm Sewer Systems. This inventory includes ditches, culverts, catch basins, vaults, ponds, and swales. Completed Stormwater Construction Projects since the Stormwater Division was created in 2005 are listed below.

Table 15. Completed Stormwater Construction Projects Since 2005

Existing Site No.	Watershed	Facility Name	Year Completed
1	Lake Whatcom	Geneva Stormwater Retrofits	2006
2	Lake Whatcom	Cable Street Reconstruction & Stormwater Improvements	2007
3	Lake Whatcom	Lahti Drive Stormwater Improvements	2010
4	Lake Whatcom	Silver Beach Creek Improvements - Brownsville Drive to E. 16th Place	2011
5	Lake Whatcom	Silver Beach Creek Improvements - West Tributary	2012
6	Lake Whatcom	Coronado-Fremont Stormwater Improvements	2014
7	Lake Whatcom	Cedar Hills-Euclid Stormwater Improvements	2016
8	Lake Whatcom	Agate Bay Improvements-Phase 1 & 2	2018-2019
9	Lake Whatcom	Northshore/Edgewater Stormwater Improvements	2020
10	Lake Whatcom	Silver Beach Creek Phase 1-Woodlake	2021



Figure 1. Lake Whateom Cedar Hills-Euclid Stormwater Improvements

Whateom County Public Works regularly seeks and is awarded grant money that contributes to the design and construction of these stormwater projects that improve water quality through treatment systems and stream stabilization.

Future Needs

An increasing emphasis on the protection of sensitive watersheds has resulted in the adoption of comprehensive stormwater plans, including plans for Lake Whateom and Birch Bay. The adopted plans identify work towards planning, design, engineering, and construction of capital projects intended to address stormwater issues.

Proposed Improvement Projects

Stormwater improvement projects totaling approximately \$14.7 million are proposed over the six-year planning period as shown below. These costs would be paid by Real Estate Excise Tax (REET), Lake Whateom Stormwater Utility, grants, Road fund, funding from the Birch Bay Watershed and Aquatic Resources Management District (BBWARM), Flood fund, and Federal Emergency Management Agency (FEMA) funds.

Table 16. Stormwater Projects

Project # and Name	Funding Source	2023	2024	2025	2026	2027	2028	Totals
1 Academy Stormwater Facility Phase 2-Eval & Improvements	1, 2, 6	330,000						330,000
2 Geneva Bioretention Pilot Project	1, 2, 3	977,250	132,000	132,000	17,000	-	-	1,258,250
3 Eagleridge Stormwater Facility	1, 2	10,000	115,000	350,000	-	-	-	475,000
4 Austin Ct Filter Vault	1, 2	95,000		320,000		-	-	415,000
5 Silver Beach Creek Phase 2 - Erosion Control	2	80,000	600,000					680,000
6 Viewhaven Lane Water Quality & Conveyance Improvements	1, 2	10,000	115,000		350,000			475,000
7 Strawberry Pt/ Lake Whatcom Blvd Water Quality Facility	1, 2		-	115,000	140,000	655,000		910,000
8 Geneva St/Lake Louise Culvert Replacement	1, 4		-	-	80,000		200,000	280,000
9 Lake Whatcom Boulevard Media Filter Drain	2		-	-	125,000	80,000	630,000	835,000
10 Sudden Valley - Stormwater Improvements Phase 2	1, 2				10,000	180,000		190,000
11 Lake Whatcom Boulevard Water Quality Vault	2						115,000	115,000
12 Charel Terrace Stormwater Outfall Repair	1, 5, 7	415,000						415,000
13 Holeman Ave Stormwater Improvements	1, 5	35,000	950,000	-	-	-	-	985,000
14 Semiahmoo Dr South & Outfall Improvements	1, 4, 5, 7	250,000	1,200,000		-	-	-	1,450,000
15 Normar Place Stormwater Improvements	1, 5	150,000	40,000	500,000		-	-	690,000
16 Lora Lane Drainage & Tide Gate	1, 4, 5		80,000	150,000	1,200,000			1,430,000
17 Birch Pt Rd & Outfall Improvements	5		50,000	150,000	500,000			700,000
18 Richmond Park Stormwater Improvements	1, 5			180,000	200,000	1,050,000	1,000,000	2,430,000
19 Wooldridge Ave & Sunset Dr Stormwater Improvements	5					50,000	100,000	150,000
20 Hillsdale Stormwater Improvements Phase I	5						50,000	50,000
21 Shallow Shore Culvert Relocation	1	470,000						470,000
Stormwater Totals		2,822,250	3,282,000	1,897,000	2,622,000	2,015,000	2,095,000	14,733,250

Funding Sources

1. Real Estate Excise Tax (REET)
2. Lake Whatcom Stormwater Utility
3. Grants
4. Road Fund
5. Birch Bay Watershed and Aquatic Resources Management District (BBWARM)
6. Flood Fund
7. FEMA

Note: Projects 1-11 are within the Lake Whatcom Watershed. Projects 12-20 are within the Birch Bay Watershed.

Chapter 11—Total Costs

Total Costs for the six-year planning period are shown below.

Table 17. Total Costs for the Six-Year Planning Period

	Total Costs	Percent of
	2023-2028	Total Costs
Parks, Trails, and Activity Centers	<u>38,944,702</u>	<u>9.09%</u>
Maintenance and Operations	2,621,509	0.61%
General Government Buildings and Sites	86,179,100	19.92%
Sheriff's Office	22,042,808	5.14%
Emergency Management	0	0.00%
Adult Corrections	151,200,000	35.29%
Juvenile Detention	0	0.00%
Transportation	113,592,000	26.51%
Stormwater Facilities	<u>14,733,250</u>	<u>3.44%</u>
TOTAL	<u><u>428,493,369</u></u>	100.00%

The County plans to undertake capital improvement projects costing over \$428 million between 2023 and 2028, which will be financed with a combination of local, state, federal, and other funding sources.

Background Information

Seven-Year Capital Improvement Program

Projects over \$5 Million

1. New Corrections Facility (\$149.0 million) – Draft CIP, page F-18
2. Lummi Island Ferry Project (\$55.5 million) – Draft CIP, page F-21
3. Northwest Annex Debt Service (\$17 million) – Draft CIP, page F-13
4. Sheriff’s Office Relocation (\$8.6 million) – Draft CIP, page F-15
5. Courthouse Exterior Project (\$10.2 million) – Draft CIP, page F-13
6. North Lake Samish Rd. Bridge Replacement (\$12 million) – Draft CIP, page F-20 (see also TIP)
7. Swift Creek Sediment Management (44.5 million) Draft CIP, page F-23
8. 23 Hour Crisis Relief Center (22.4 million), page F-13
9. Birch Bay Beach Park Development (5.4 million), page F-10
10. Plantation Rifle Range Lead Remediation Project (13.3 million) page F-10

Notes:

CIP means “Capital Improvement Program”

TIP means “Transportation Improvement Program”

The information below was provided by various County Departments as part of their “Capital Improvement Request” forms and other correspondence.

1. New Corrections Facility (\$149.0 million)

Capital Improvement Title: New Health & Safety Justice Facility

Department: Facilities Management

Answer the following questions. Indicate the source of your data where applicable.

1. Capital improvement description (include square feet, acres, miles of trails, jail beds, etc):

Construction of a new medium sized jail facility to replace the current Public Safety Building which has reached the end of its useful life.

2. What is the problem this Capital Improvement will address?

The Public Safety Building (Jail) was built in 1982 and has reached the end of its useful life. Consistent with many reports and studies, the most economical method to updating our current jail is to replace the facility with a new, modern facility with current design standards.

3. Location (address, Assessor's parcel number or map):

Labounty Road

4. How will this capital improvement benefit our citizens?

Replacement of the existing Jail, with modern amenities and space allocations for programmatic treatment options may ultimately reduce jail population.

5. Is this capital improvement required to comply with laws, regulations or Level of Service (LOS) standards? (Explain)

The building does not meet current life safety standards set forth in the International Building Code (IBC) or incarceration standards. Any proposed new facility would meet all building and incarceration standards.

6. Will this capital improvement increase efficiency in providing a public service? How?

The existing Public Safety building is operationally inefficient. A new jail facility would/should reduce inefficiencies and could most likely reduce labor force required to operate and manage the inmates and facility.

7. Will this capital improvement reduce annual operating costs? Please quantify

The existing facility is old and dilapidated and a new facility would reduce energy consumptions and increase operational efficiencies as explained above.

8. Will this capital improvement impact other county departments? How?

The Courts, Sheriff and Facilities would all benefit from a new facility

9. Will this capital improvement reduce future capital costs? How?

Yes, both in energy efficiency and operational costs (staffing).

2. Lummi Island Ferry Project (\$55.5 million)

Capital Improvement Title: Public Works Lummi Island Ferry Replacement and System Modernization Project

Department: Public Works – Ferry Division

Answer the following questions. Indicate the source of your data where applicable.

1. Capital improvement description (include square feet, acres, miles of trails, jail beds, etc):

This project will replace the 60-year-old ferry with an electric-battery hybrid ferry that provides service to and from the rural community of Lummi Island. The project also includes adjusting the terminal structures to accommodate the new ferry, installing electrical charging infrastructure and making operational and upland modifications to preserve and enhance the functionality of the ferry system.

2. What is the problem this Capital Improvement will address?

The primary problem being solved by this project is the increasingly untenable risk and cost associated with operating an old ferry that is already beyond its projected useful life span, is functionally obsolete, and that provides the only public access to a rural island community. Due to the existing vessel's age, service hours, lack of replacement parts/equipment, and operations in a corrosive saltwater environment, the vessel's life expectancy has already been exceeded. The project goals are:

- » Replace the Whatcom Chief to ensure reliable and cost-effective access to the mainland from Lummi Island
- » Provide access to medical and professional services
- » Ensure availability of emergency and public works services
- » Improve safety
- » Maintain the flow of goods and services to the island
- » Provide access to employment
- » Support tourism and recreational activities

3. Location (address, Assessor's parcel number or map):

Lummi Island (48.720142, -122.681717)

4. How will this capital improvement benefit our citizens?

- » Significantly reduce carbon emissions, promote environmental sustainability and reduce noise pollution
- » Improve passenger and crew safety
- » Satisfy current and future level of service need including access for essential services
- » Streamline loading operations for both passengers and vehicles including legal load vehicles
- » Incorporate innovative marine technologies with an electric-battery hybrid propulsion system
- » Ensure reliable ferry service for now and into the future

5. Is this capital improvement required to comply with laws, regulations or LOS standards? (Explain)

Yes. There are state and federal mandates requiring emission improvements that will require a costly retrofit. Additionally the boat does not address current Americans with Disabilities Act (ADA) accessibility standards.

6. Will this capital improvement increase efficiency in providing a public service? How?

Yes. The replacement ferry and system modernization project would provide more reliable service with fewer outages well into the future.

7. Will this capital improvement reduce annual operating costs? Please quantify

The forecasted Operations and Maintenance (O&M) costs for the new and markedly larger replacement ferry are comparable to the existing O&M costs. The reductions in vessel fuel and maintenance costs are essentially offset by the addition in electricity and terminal maintenance costs, thereby retaining O&M subsequent to project implementation similar to the existing costs.

3. Northwest Annex Debt Service (\$17.1 million)

Capital Improvement Title: Northwest Annex Campus Replacement

Department: Administrative Services (AS) Facilities Management

Answer the following questions. Indicate the source of your data where applicable.

1. Capital improvement description (include square feet, acres, miles of trails, jail beds, etc):

Demolish existing buildings on Northwest Annex campus. Construct a new approximately 37,700 square foot building immediately east of the existing Northwest Annex building (which will be demolished) to provide space for Planning and Development Services, Public Works Engineering Services and Administration, and the Washington State University (WSU) Whatcom County Extension office. Associated parking, landscaping and stormwater facilities will also be installed. Additional buildings may be constructed on the site in the future.

2. What is the problem this Capital Improvement will address

Northwest Annex is dilapidated and in dire need of replacing. A new energy efficient campus, with anticipated expansion space, is proposed to replace the existing facility. This request also anticipates improvements to the Northwest Avenue/Smith Road interstation.

3. Location (address, Assessor's parcel number or map):

5280 Northwest Avenue, Bellingham WA 98225

4. How will this capital improvement benefit our citizens?

The County spends a substantial amount of money on maintenance of the building and failing systems at Northwest Annex. Replacing the dilapidated structure with a new energy efficient campus would benefit the citizens of Whatcom County.

5. Is this capital improvement required to comply with laws, regulations or LOS standards? (Explain)

The new improvements will be compliant with the Energy code in place at the time of installation.

6. Will this capital improvement increase efficiency in providing a public service? How?

Yes. Replacement of the existing building with an energy efficient, Leadership in Energy and Environmental Design (LEED) certified building would significantly reduce energy consumption. Additionally, the building is substantially underutilized in its current configuration.

7. Will this capital improvement reduce annual operating costs? Please quantify

The annual operating costs will be reduced substantially due to reduced maintenance costs and reductions in energy consumption.

8. Will this capital improvement impact other county departments? How?

This improvement will impact the Sheriff Department due to the need to relocate Search and Rescue, which is located on this parcel.

9. Will this capital improvement reduce future capital costs? How?

By implementing the improvements to Northwest Annex, the County is paying for items in current value dollars and not the increased cost of these improvements in the future due to escalation and inflation cost increases.

4. Sheriff's Office Relocation (\$8.6 million)

Capital Improvement Title: Sheriff's Office

Department: Facilities Management

Answer the following questions. Indicate the source of your data where applicable.

1. Capital improvement description (include square feet, acres, miles of trails, jail beds, etc):

The Sheriff is in need of a new facility for his administration. It is estimated that 30,000 sf is anticipated for this use. Additionally, smaller 3000-6000 sf satellite office, near downtown is necessary.

2. What is the problem this Capital Improvement will address?

The existing Sheriff Office is located in the basement of the Public Safety Building. This area was not built for this use and should be relocated in a more modern usable location.

3. Location (address, Assessor's parcel number or map):

TBD

4. How will this capital improvement benefit our citizens?

The existing Sheriff's Office is not efficiently laid out, or in an energy efficient building. As it is anticipated that a new jail is proposed, so too should a new Sheriff's Office be considered. Newer buildings will be designed with energy efficiency and maintenance will be decreased.

5. Is this capital improvement required to comply with laws, regulations or LOS standards? (Explain)

The new improvements must comply with the Energy code.

6. Will this capital improvement increase efficiency in providing a public service? How?

A better design should increase efficiency among staff

7. Will this capital improvement reduce annual operating costs? Please quantify

Yes. There should be reduced maintenance costs with replacement of these components.

8. Will this capital improvement impact other county departments? How?

It is not anticipated that this improvement will impact other County departments.

9. Will this capital improvement reduce future capital costs? How?

Large scale maintenance costs, some Capital, will be reduced with a new, efficient building.

5. Courthouse Exterior Project (\$10.2 million)

Capital Improvement Title: Improvements to the Courthouse Envelope

Department: AS – Facilities Management

Answer the following questions. Indicate the source of your data where applicable.

1. Capital improvement description (include square feet, acres, miles of trails, jail beds, etc):

Continuation of HKP Courthouse Exterior Project as Defined in HKP Report Dated November 2015. Continued efforts include replacing remaining roofs, and roof top mechanical equipment. The scope of work also includes replacing glazing on the 1993 (East) addition, where glazing has failed. Efforts are shown for cost/year. Each year has a design phase, typically for the following year construction. Also shown is the contract administration effort by the design team for each project while under construction.

2. What is the problem this Capital Improvement will address?

Repairs to the Courthouse exterior envelope to seal the building from water intrusion. Additional efforts will replace roofing and bringing the roof area into compliance with the Energy Code.

3. Location (address, Assessor's parcel number or map):

Courthouse, 311 Grand Avenue, Bellingham WA 98225

4. How will this capital improvement benefit our citizens?

The improvements will seal the building, and replace roofing that has reached end of life. The improvements, including energy code improvements, will reduce the overall maintenance and energy costs of the Courthouse.

5. Is this capital improvement required to comply with laws, regulations or LOS standards? (Explain)

No

6. Will this capital improvement increase efficiency in providing a public service? How?

Once complete, if the project does in fact reduce overall maintenance of the building, there will be less disruption to the tenants of the building.

7. Will this capital improvement reduce annual operating costs? Please quantify

No

8. Will this capital improvement impact other county departments? How?

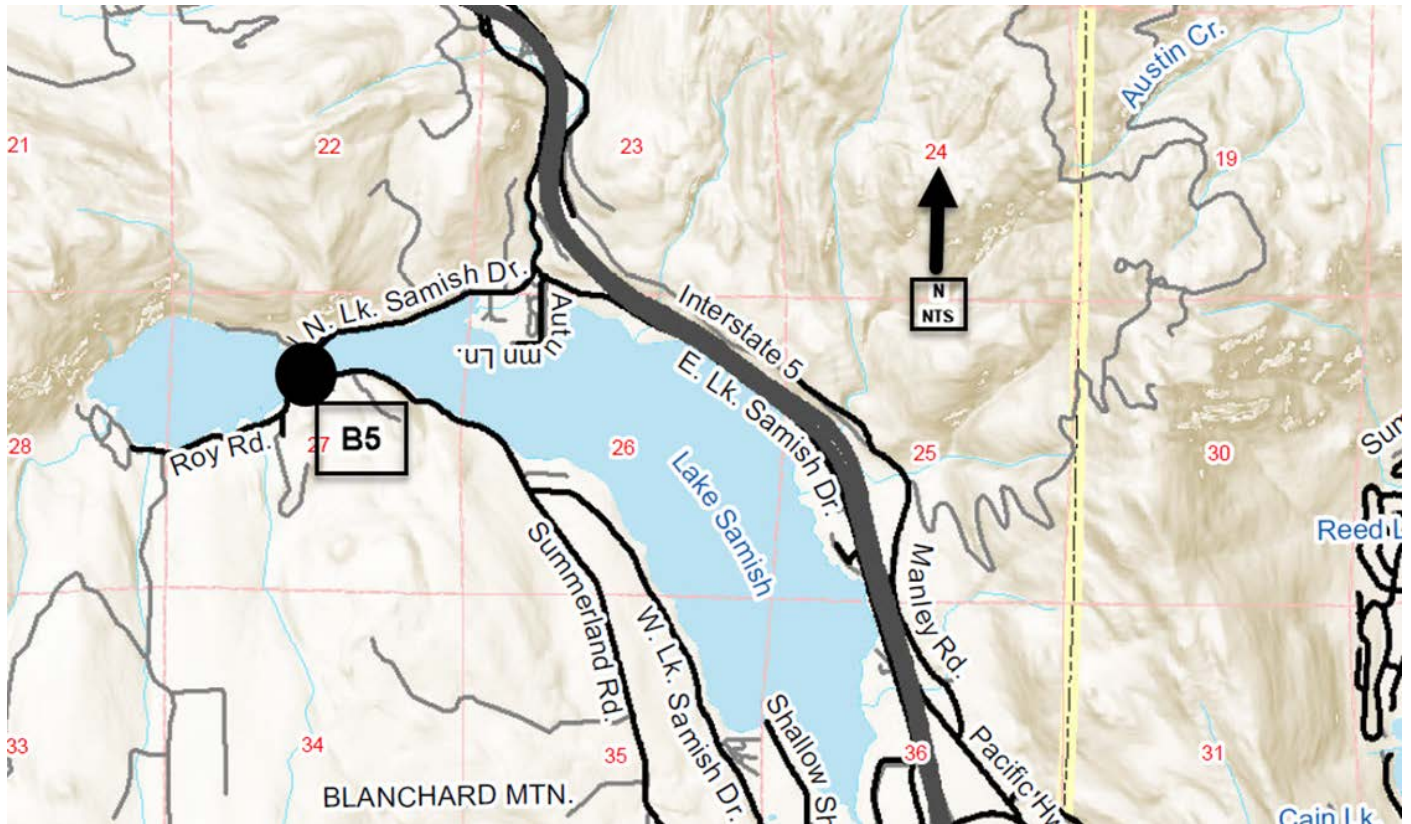
All occupants of the Courthouse could be affected

9. Will this capital improvement reduce future capital costs? How?

Yes. These improvements should reduce the water intrusion issue that exists in the Courthouse. Creating a proper envelope should protect the interior components of the building.

6. North Lake Samish Rd. Bridge Replacement (\$12.0 million)

This project is located on Lake Samish in Section 27, T37N, R3E. This project will replace the existing 250-foot timber bridge which is structurally deficient with a prestressed concrete girder bridge. This project is listed #B5 on the 2023-2028 Six-Year Transportation Improvement Program.



7. Swift Creek Sediment Management (44.5 million)

Department: Stormwater Facilities

Answer the following questions. Indicate the source of your data where applicable.

1. Capital improvement description (include square feet, acres, miles of trails, jail beds, etc):

Flood protection and landslide and sediment management engineered features (>50 acres).

2. What is the problem this Capital Improvement will address?

Construction of the engineered features will address accumulation of hazardous landslide sediment, including provide a place to take the hazardous sediment per regulations.

3. Location (address, Assessor's parcel number or map):

7431 Goodwin Road

4. How will this capital improvement benefit our citizens?

This CIP will help mitigate the sediment, landslide and flood risk for properties and public road system.

5. Is this capital improvement required to comply with laws, regulations or LOS standards? (Explain)

Whatcom County and the Whatcom County Flood Control Zone District entered into a consent decree (CD) with the WA Department of Ecology. The CD was approved by Whatcom County Superior Court on December 6, 2019. The CD requires Whatcom County to administer the State funded Sediment Management Action Plan.

6. Will this capital improvement increase efficiency in providing a public service? How?

Yes, this will help keep the road system open, reduce road/bridge maintenance, and help reduce costly flood impacts. The impact from 2021 floods reflect how important this work is for the community, specifically for the area impacted by swift creek sediment.

7. Will this capital improvement reduce annual operating costs? Please quantify

This work will be accomplished with state funds. After completion this will require increased annual operating costs.

8. Will this capital improvement impact other county departments? How?

Yes, public works (roads, bridges) as well as the health department (sediment contains naturally occurring asbestos). The asbestos and heavy metals found in the landslide sediment and flooding events are known to be detrimental to health. This CIP is a collaboration between these departments and the Department of Ecology, and affects partners in British Columbia.

9. Will this capital improvement reduce future capital costs? How?

Capital costs to construct engineered features of the Action Plan will increase over time. Constructing as state funds are available in this and future biennia terms is the best plan to reduce future capital costs. Capital maintenance costs will continue and increase.

8. 23 Hour Crisis Relief Center (22.4 million)

Capital Improvement Title: 23 Hour crisis Relief Center (23.2 million)

Department: Government Facilities

Answer the following questions. Indicate the source of your data where applicable.

1. Capital improvement description (include square feet, acres, miles of trails, jail beds, etc):

24,000 square foot medical facility and associated site improvements.

2. What is the problem this Capital Improvement will address?

Under the current continue of care, residents experiencing a behavioral health crisis have limited resources for stabilization: (1) While the Anne Deacon Center for Hope provides some stabilization support it is not designed to meet the immediate needs of individuals experiencing a crisis – currently wait lists are 14 or more hours and there is a capacity of 16 people at any time. (2) The local emergency department, while often able to take individuals immediately do not have the staff necessary to support individuals experiencing a behavioral health crisis. (3) Law enforcement sometimes uses the jail, which is less trauma informed than the 23-hour facility will be, when the individual experiencing crisis is a danger to self or others and no other options are available.

3. Location (address, Assessor's parcel number or map):

2000 Division Street

Bellingham, WA 98225

4. How will this capital improvement benefit our citizens?

The proposed 23-Hour Crisis Stabilization Center will be an out-patient medical facility that can accommodate between 24 and 36 individuals at a time. Additional individuals may be accommodated as the facility occupancy threshold allows. This capital improvement will provide resources for individuals that currently have few care options when experiencing a crisis that needs immediate attention and treatment.

5. Is this capital improvement required to comply with laws, regulations or LOS standards? (Explain)

Not required to comply with laws, regulations or LOS standards.

6. Will this capital improvement increase efficiency in providing a public service? How?

The local emergency department, while often able to take individuals immediately do not have the staff necessary to support individuals experiencing a behavioral health crisis. Law enforcement sometimes

uses the jail, which is less trauma informed than the 23-hour facility will be, when the individual experiencing crisis is a danger to self or others and no other options are available.

7. Will this capital improvement reduce annual operating costs? Please quantify

While this work is at its most preliminary states in predevelopment, a review of the literature suggests that the County can expect to see significant savings across multiple sectors including a reduction in the number of psychiatric hospitalization and emergency room referrals (c.f. Gillig, et al., 1989¹; Francis et al., 2000²; Thinn et al., 2015³). Additionally, we anticipate a reduced cost to the court system, the jail, and other Department-run behavioral health programs.

8. Will this capital improvement impact other county departments? How?

We anticipate a reduced cost and burden to the court system, the jail, and other Department-run behavioral health programs. The facility will provide resources for individuals experiencing a crisis with a no refusal policy. Individuals will be assessed and provided guidance on further steps and resources available.

9. Will this capital improvement reduce future capital costs? How?

The global outcome of this work is the reduction of the number of individuals experiencing a behavioral health crisis in Whatcom County that are hospitalized secondary to their crisis. This facility is intended to be an assessment and treatment resource that prevents further harm and escalated crisis scenarios.

¹ Gilli, PM, Hilard JR, Bell J, et al. The psychiatric emergency service holding area: Effect on utilization of inpatient resources. *American Journal of Psychiatry*. 1989; 146: 369-372.

² Francis E, Marchand W, Hart M, et al. Utilization and outcome in an overnight psychiatric observation program at a Veterans Affairs Medical Center. *Psychiatric Services*. 2000; 51(1): 92-95.

³ Thinn DS, Kuswanto CN, Sum MY, et al. The 23-hour observation unit admissions within the emergency service at a national tertiary psychiatric hospital: Clarifying clinical profiles, outcomes, and predictors of subsequent hospitalization. *The Primary Care Companion for CNS Disorders*. 2015; 17. Doi: 10.4088/PCC.15m01789

10. Birch Bay Beach Park Development (5.4 million)

Capital Improvement Title: Birch Bay Beach Park Development (5.4 million)

Department: Parks

Answer the following questions. Indicate the source of your data where applicable.

1. Capital improvement description (include square feet, acres, miles of trails, jail beds, etc):

This project will result in the development of a 4.2-acre community park, located in the heart of Birch Bay. The project scope includes construction of a new 124-unit off-street parking facility, public restrooms, picnic and flexible grass playfields, accessible walkways, information signage, and enhanced landscaping.

2. What is the problem this Capital Improvement will address?

This project will satisfy a long-established community goal of providing public parking and restrooms in Birch Bay to support heavy public visitation that the surrounding tidelands attract. Additional parking will improve shoreline access, while restrooms will satisfy a critical human health and comfort need while also reducing pollution loading of sensitive tideland areas.

3. Location (address, Assessor's parcel number or map):

7930 Birch Bay Drive, Blaine, WA 98230

4. How will this capital improvement benefit our citizens?

The project will more than double the available public parking in Birch Bay. The additional parking will facilitate year-round shoreline access, which is especially important during the busy summer months when Birch Bay experiences very high visitation. The parking proposed will be entirely off-street, significantly improving pedestrian safety and reducing potential vehicle/pedestrian conflict.

The project also includes an accessible route from the off-street parking to a public restroom, picnic areas, and a 1-mile-long bayside multi-use pathway. Access to the shoreline from the pathway although not ADA accessible is relatively easy because of the low-gradient back and foreshore.

5. Is this capital improvement required to comply with laws, regulations or LOS standards? (Explain)

No.

6. Will this capital improvement increase efficiency in providing a public service? How?

This project proposes closing existing service gaps and improving public access by developing a new off-street parking facility, restrooms, and a fully accessible route that connects these improvements to a signalized crosswalk that will provide access a 1-mile-long shoreline multi-use path. Other

improvements include picnic and day-use areas, site furnishings, informational and interpretive signage, and street frontage improvements.

7. Will this capital improvement reduce annual operating costs? Please quantify

No, development of this facility will increase annual operating costs.

8. Will this capital improvement impact other county departments? How?

Yes, Planning & Development Services will be involved in the project to ensure the project meets local regulations.

9. Will this capital improvement reduce future capital costs? How?

Yes, developing the facility as scheduled in the 6-year Capital Improvements Program locks in construction and development costs. Postponing the project beyond the proposed development timeline will necessarily increase costs due to inflation.

11. Plantation Rifle Range Lead Remediation Project (13.3 million)

Capital Improvement Title: Plantation Rifle Range Lead Remediation Project (14.1 million)

Department: Parks

Answer the following questions. Indicate the source of your data where applicable.

1. Capital improvement description (include square feet, acres, miles of trails, jail beds, etc):

In compliance with Agreed Order # DE 21650 between Whatcom County and Washington State Department of Ecology, this project provides for cleanup of hazardous substances at Plantation Rifle Range.

2. What is the problem this Capital Improvement will address?

Whatcom County has operated Plantation Range since the early 1970s without conducting lead reclamation. The accumulation of lead, and other contaminants related to shooting range operations, in the environment requires cleanup to protect environmental and human health. This project provides resources to conduct this work.

3. Location (address, Assessor's parcel number or map):

5102 Samish Way, Bellingham, WA.

4. How will this capital improvement benefit our citizens?

This capital improvement benefits our citizens through compliance with the Washington State Model Toxics Control Act and cleanup of hazardous waste.

5. Is this capital improvement required to comply with laws, regulations or LOS standards? (Explain)

This project is required for compliance with Washington State Model Toxics Control Act.

6. Will this capital improvement increase efficiency in providing a public service? How?

No.

7. Will this capital improvement reduce annual operating costs? Please quantify

No.

8. Will this capital improvement impact other county departments? How?

Planning and Development Services is responsible for issuing permits related to this project.

9. Will this capital improvement reduce future capital costs? How?

Yes. Cleanup of the site is required. Costs associated with the project are anticipated to increase with time. Implementing the project in a timely manner avoids experiencing future cost increases and reduces the potential for fiscal penalties related to non-compliance with Agreed Order # DE 21650.

WHATCOM COUNTY
Planning & Development Services
5280 Northwest Drive
Bellingham, WA 98226-9097
360-778-5900, TTY 800-833-6384
360-778-5901 Fax



Mark Personius, AICP
Director

Memorandum

TO: Planning Commission
FROM: Cliff Strong, Senior Planner
THROUGH: Steve Roberge, Asst. Director
DATE: October 2, 2024
SUBJECT: PLN2024-00003 Local Project Review Amendments

At the 9/26/24 Planning Commission public hearing on this matter, the Building Industry Association of Whatcom County (BIAWC) submitted written comments on the proposed amendments. PDS requested time to review and address the comments. We have now reviewed those comments, some of which led to amend some of the language. PDS responses are embedded in the Association's letter, attached.

Whatcom County Planning & Development Services Staff Report

Amendments to WWC Title 22 to Enact SSB 5290 Regarding Local Project Review

I. File Information

File # PLN2024-00003

File Name: Local Project Review Amendments

Applicants: Whatcom County Planning and Development Services (PDS)

Summary of Request: Proposed amendments to WCC Title 22 (Land Use and Development) and Chapter 20.97 (Definitions) to enact SSB 5290 regarding local project review and to fix some deficiencies.

Location: Countywide.

Recommendation(s): Planning and Development Services recommends approval.

II. Background

SSB 5290

On May 10, 2023, the governor signed SSB 5290 approving amendments to RCW 36.70B. Washington passed numerous bills, including SSB 5290, to combat the state's housing crisis. The bill encourages local governments to streamline their permitting processes for new housing. According to the legislation, "Senate Bill 5290 seeks to modernize permitting systems, providing grants to update the systems from paper to electronic, provides grants to augment permit review staff, and sets deadlines on when permits must be reviewed by, to be enforced by partial refunds on permitting fees if these deadlines are not met."

SSB 5290 amends the Local Project Review Act, Chapter 36.70B RCW, with the intent to increase the timeliness and predictability of local project review. The bill also establishes grant and technical assistance programs, which will be administered by the Washington State Department of Commerce (Commerce), to assist local governments in obtaining the capacity needed for timely permit processing.

Amendments to Chapter 36.70B are numerous and include, among other things, updated local permit review timelines, clarifications regarding the determination of completeness process, a new exemption from site plan review for certain interior projects that contain no exterior alterations, updated annual reporting requirements related to permit issuance, and provisions requiring partial permit fee refunds for failure to timely process permit applications.

All sections became effective as of July 23, 2023, except for the provisions in Section 7, which include the new permit review timelines and annual reporting requirements. That section is effective as of January 1, 2025.

Below is a summary of some of the major changes included in the amended law.

New Permit Review Timelines

There are new permit review timelines for project permit applications submitted to GMA-planning jurisdictions after January 1, 2025 (see RCW 36.70B.080):

- For projects that do not require public notice under RCW 36.70B.110, the final decision must be issued within 65 days of the determination of completeness under RCW 36.70B.070.
- For projects that do require public notice under RCW 36.70B.110, the final decision must be issued within 100 days of the determination of completeness under RCW 36.70B.070.
- For project permits which require both notice under RCW 36.70B.110 and a public hearing, the final decision must be issued within 170 days of the determination of completeness under RCW 36.70B.070.

The above timelines can be altered by local ordinance to address consolidated review time periods or to accommodate larger projects and other differentiating factors. The “shot clock”—or time limit on application review—starts with the determination of complete application and must include every calendar day (not just business days). Certain actions will stop the clock, such as a request by the applicant to temporarily suspend project review as well as the time during which a jurisdiction is waiting for additional information from the applicant. If an applicant does not provide requested information within a specified time, additional time can be added to the shot clock.

Failure to adhere to the established permit review timelines results in a requirement for a local government to refund an applicant’s permit fees on a pro-rated basis—up to a 20% refund depending on the length of the delay. If cities and counties have implemented at least three optional measures intended to streamline project review set forth in RCW 36.70B.160(1), then these permit fee refund provisions do not apply. There are 10 optional measures that local governments are encouraged to adopt. See discussion in Section III—Code Amendments.

Adoption of an ordinance amending timelines consistent with the new provisions will not be subject to appeal to the Growth Management Hearings Board, unless a jurisdiction chooses to adopt time periods for review that are different than those listed in the statute and exceed 170 days.

Revised Annual Reporting Requirements for Certain Jurisdictions

Counties subject to RCW 36.70A.215 (i.e., the buildable lands program) and cities within those counties with a population of at least 20,000 must post annual reports to their websites and submit these reports annually to Commerce by March 1. These reports must include the number of permits issued by type, length of processing decisions, and several other metrics as set forth in amended RCW 36.70B.080. This reporting requirement begins March 1, 2025.

Exemptions from Site Plan Review

Projects with only interior alterations must be exempt from site plan review provided no new sleeping quarters or bedrooms are added and certain other thresholds are not exceeded. See RCW 35.70B.140(3). This section was effective as of July 2023.

Commerce Grant Programs and Technical Assistance

SSB 5290 also places new responsibilities on Commerce to assist and support local governments in their efforts to speed up local permit review, including offering specialized grant programs.

Consolidated permit review grant program

Commerce will offer grants to local governments that commit to certain building permit review consolidation requirements. These include:

- A commitment to issue residential permit applications within 45 business days or 90 calendar days;
- Establishment of an application fee structure that allows for timely consolidated permit review; and
- Completion of a quarterly report to Commerce that includes the maximum and average time for permit review during participation in the program, among other requirements.

Digital permitting grant program

Commerce will offer grants to local governments to update software systems that enable an agency to process electronic permit applications and conduct virtual inspections. Grants will only be provided to a city if the city allows for development of at least two units per lot on all lots zoned predominantly for residential use.

Here are additional items, unrelated to funding, that SSB 5290 directs Commerce to do:

- Convene a digital permitting process workgroup consisting of stakeholders, including Association of Washington Cities, Washington State Association of Counties, cities, counties, building groups, and building inspectors. This group must provide a final report to the state legislature by August 1, 2024, that makes recommendations intended to encourage streamlined and efficient permit review, including consideration of the costs and benefits of implementing a statewide permitting software system.
- Provide technical assistance and guidance to counties and cities in setting fee structures that are reasonable and sufficient to recover true costs.
- Develop a template for annual report submissions required under RCW 36.70B.080.
- Develop a plan to help local governments find appropriately trained staff for temporary support to enable timely processing of residential housing permit applications. This plan is to be submitted to the state legislature by December 1, 2023.

III. Code Amendments

Not all of SSB 5290 requirements necessitate code amendments; some are procedural and some are budgetary. The proposed code amendments that we need to make are found in Exhibit A. While many have to do with implementing SSB 5290, PDS is also taking this opportunity to fix some deficiencies in WCC Title 22. A general description of the proposed amendments follows:

Amendments to Comply SSB 5290

Changing the time limit for determining whether an application is complete from 14 to 28 days (22.05.050(4))

Currently the WCC has a 14-day requirement within which the County must determine an application to be complete. SSB 5290 extends this to 28 days. Staff is proposing to amend 22.05.050(4) as allowed by state law.

Limiting the County's ability to request additional information or corrections (i.e., issue NOARs) to 3 times (22.05.080(2)(c))

During the permit review process, staff often finds information submitted with an application to be incomplete, lacking, or just plain wrong. To remedy this, we issue what's called a Notice of Additional Requirements (NOAR) requesting additional information or corrections (with the goal of being able to find that the application is consistent with the regulations and thus approve it). Generally, everything we've identified as incomplete, lacking, or wrong is compiled into one NOAR and sent to the applicant and their consultant. However, this often devolves into an endless loop, as they'll submit some of the items requested but not all, the submitted information is still inconsistent with the code, or elements have been added/removed that staff must re-review.

In an effort to curtail such cycles, SSB 5290 now limits jurisdictions' ability to issue NOARs to three times. SSB 5290 also requires that, upon issuance of a 2nd NOAR, we invite the applicant to meet so as to resolve any issues. And if upon issuing a 3rd NOAR the applicant's response is not adequate we must make a decision to approve or deny the application.

Practically, this means that PDS must be very thorough in determining application completeness and in issuing NOARs. Similarly, applicants (and their consultants) must be thorough in their responding to

NOARs; they will no longer be able to respond piecemeal. If after the 3rd NOAR they have not responded adequately, and staff cannot determine that the application is consistent with the regulations, the County will have to deny it. This may mean that in the coming years PDS will end up denying many more permits, and there may be an uptick in appeals, until the consultant community becomes more responsive.

Setting a 60-day time limit for an applicant to respond to a NOAR (22.05.080(2)(b))

Related to the previous change, SSB 5290 also limits the time for an applicant to respond to a NOAR to 60 days, extending the overall timeline by 30 days if they do not.

Setting new timelines for reviewing and deciding on permit applications (22.05.130(1)(a))

As explained in Section II, above, SSB 5290 sets new timelines for reviewing and deciding on permit applications, and these are being incorporated into §22.05.130(1)(a).

Project Type	Current Timeline	SSB 5290 Timeline
For projects that do not require public notice	120	65 days
For projects that do require public notice	120	100 days
For project permits that require both notice and a public hearing	120	170 days

Refining what actions suspend the overall permit timeline (22.05.130(1)(b))

Under SSB 5290 some actions can suspend the permit timelines. For the most part the WCC complies already, though staff is proposing to refine them a bit.

Excluding certain actions from these timelines (22.05.130(1)(c))

SSB 5290 also allows us to exclude certain actions from the required timelines. In general, these are legislative or other actions that require Council approval (e.g., CompPlan and code amendments, rezones, development agreements, etc., which are subject to a Type IV process), but also includes substantial revisions to an application by the applicant.

Penalties—Refund of a portion of permit fees if the timelines are not met (see RCW 36.70B.080 [Effective January 1, 2025])

As explained in Section II, above, SSB 5290 requires that jurisdictions can be penalized and must refund a certain portion of an applicant’s fees if the timelines are not met, as follows:

- 10% if issuance of the final decision is late but does not exceed 20% of the original time period;
- 20% if issuance of the final decision exceeds 20% of the original time period.

However, the bill also includes options at RCW 36.70B.080(1)(l)(ii) that local governments can implement to avoid those penalties—if the jurisdiction implements at least three (3) of the ten (10) permit review streamlining options in RCW 36.70B.160(1) (a – j).

The proposed amendments in this report do not include the addition of permit fee refunds because the County complies with RCW 36.70B.080(1)(l)(ii). In particular, Whatcom County complies with RCW 36.70B.160(1)(b), (d), (h) and (j) as further described below.

- b) Imposing reasonable fees, consistent with RCW 82.02.020, on applicants for permits or other governmental approvals to cover the cost to the city, town, county, or other municipal corporation of processing applications, inspecting and reviewing plans, or preparing detailed statements required by chapter 43.21C RCW. The fees imposed may not include a fee for the cost of processing administrative appeals. Nothing in this subsection limits the ability of a county or city to impose a fee for the processing of administrative appeals as otherwise authorized by law;*

Whatcom County imposes reasonable fees that are consistent with RCW 82.02.020 within WCC 22.25. The fees imposed on applicants do not automatically include a fee to process the cost of an administrative appeal. Pursuant to WCC 22.05.160, a fee for administrative appeals is required of anyone applying for an appeal of a permit decision at the time of appeal. It may also be refunded if the appeal is dismissed in whole without hearing.

- d) Maintaining and budgeting for on-call permitting assistance for when permit volumes or staffing levels change rapidly;*

The County has two consultants under contract that were chosen from the county's active on-call list established in 2023 that will be reviewed and renewed every three years. The consultants are Shannon & Wilson, Inc. and MacWhinney Environmental Consulting, LLC. The consultants are under contract to assist with permit review if permit volumes or staffing make efficient review infeasible. These on-call contracts were approved by the County Council in 2023, and again in 2024, for the 2024 through 2026 biennium time period.

- h) Adopting development regulations which make housing types an outright permitted use in all zones where the housing type is permitted;*

Whatcom County Code lists the uses that are permitted outright (likely with the need of a building permit), permitted with an administrative use permit in addition to any necessary building permits, permitted with a conditional use permit in addition to any necessary building permits, or permitted with a major project permit in addition to any necessary building permits in each of the zones of the County. Housing is permitted outright in all residential zones (non-industrial) per WCC 20.20.050, WCC 20.22.050, WCC 20.24.050, WCC 20.32.050, WCC 20.34.050 and WCC 20.36.050. The housing types vary based on if the zones are primarily single-family or multi-family.

- j) Meeting with the applicant to attempt to resolve outstanding issues during the review process. The meeting must be scheduled within 14 days of a second request for corrections during permit review. If the meeting cannot resolve the issues and a local government proceeds with a third request for additional information or corrections, the local government must approve or deny the application upon receiving the additional information or corrections;*

Whatcom County adopts this statutory provision under WCC 22.05.080(2)(b), as shown in Exhibit A.

Additional (non-SSB 5290) Amendments

While complying with SSB 5290 is the impetus for revising WCC Title 22, there are also other issues PDS proposes to fix.

Land Use Review and Approval Process Table (WCC 22.05.020, Table 1)

Table 1 was originally adopted in 2018 as part of the first iteration of Title 22. It specifies which permits undergo which process type, the steps required for each, who the decision maker is, and who the appeal body is. However, in the intervening years staff has realized that not all of the Department's or County's land use actions are listed and we'd like to make it more complete.

Permit Type v. Process Type (WCC 22.05.020(2))

In revamping Table 1 staff has added actions that are not permits but require decisions nonetheless. Yet all still fall within the 5-tiered schema the new Table 1 describes. Therefore, staff proposes to re-designate the 4-tiered schema to a 5-tiered schema and define them as *process* types rather than *permit* types.

Removing critical areas review from the Site Plan Review process and making it a precursor to applying for a project permit or septic system or well approval (new §22.05.022)

In processing permits, undergoing critical areas review is often the phase that takes the most time, as field work and site visits are usually necessary and/or we have to await rain. Knowing what constraints are on a property is an important first step in designing one's development. Often times an applicant designs a project without knowing these constraints, only to have to redesign the project (at considerable expense) once they are known. Staff believes that significant time and money can be saved if an applicant does their critical area review prior to designing their project.

Staff is therefore proposing to require a critical areas review and determination before one even applies for a project permit. In the schema proposed, an applicant will submit a critical area assessment report for review and acceptance (pursuant to WCC 16.16, Critical Areas). Or, if critical areas are unlikely present, an applicant can request that PDS perform an initial determination of presence or absence based on a review of readily available information and/or a site visit. If determined to be present, then the applicant would submit an assessment report.

In either case, PDS would provide a written determination that critical areas and/or their buffers either are or are not present on the subject property. This would then help them in designing their project and avoiding impacts to critical areas. These written determinations would be valid for 5 years.

Note that there may be project for which such a review isn't necessary, and we have included a waiver process. Generally, waivers will be granted for projects that do not expand an existing structure's footprint or add no bedrooms or sleeping quarters, or are on a lot platted within the last 5 years, though others may present themselves.

Such a service would offer:

- Customers consistency and predictability in decision-making as applied to critical areas and associated buffers.
- Puts critical area review at the beginning of the permit review process. This means that customers will know where they can and cannot build on their property. In the case of wells, septic tanks and drainfields, customers will know prior to hiring an engineer or critical areas consultant where these systems can be located.
- Can save time and money associated with plan changes or redesigns that might occur in the middle of the permit review process, if critical area issues have not been addressed prior to Health Department review.
- Allows customers who wish to sell property an opportunity to identify critical areas and their buffers on site. The designation helps identify buildable areas and offers the associated predictability and reliability for 5 years after the determination.
- Allows for critical areas issues beyond location and classification to be addressed. For example, wetland buffer widths or a mitigation plan for driveway crossing impacts could be included within the designation.

This process is already being used in many jurisdictions, most notably King County, and has proven useful.

Clarifying that a variance is not a permit (WCC 22.05.024)

A variance is not a permit *per se*, as they don't allow one to develop, but rather a request to deviate from code standards. Variances are processed in conjunction with a project permit. They may, however, change the process type of the project permit, as additional public notice and/or a public hearing may be required depending on the category of variance. Staff is proposing language to make this clear.

Formalizing how site plans for permitted and accessory uses are reviewed (new §22.05.023)

Currently, site plans (the development layout) are reviewed for all project permits. PDS reviews them for conformance to standards (e.g., setbacks, parking, landscaping, critical areas, shoreline management, etc.) as well as use (is the use allowed by zoning?) and other code requirements. When one applies for a use permit, a site plan is a required component of the application. Applicable staff then review the project for all applicable codes. However, for permitted and accessory uses, Whatcom County does not require a permit other than a building permit. Identifying the footprint of all aspects of the proposed development early on in the process is an integral part of an efficient permit process. Currently, PDS processes Site Plan Review applications for accessory and permitted uses so that applicants are aware of all of the potential permitting requirements as early as possible. To better clarify the requirements of a Site Plan Review, staff is proposing a new section WCC 22.05.023 to describe how these reviews are done.

Development Agreements (new §22.05.029)

Development agreements are a tool allowed and described by state law (RCW 36.70B.170 – 210). They allow a developer and the County to negotiate rules and standards otherwise not allowed with County Code and enter into a contract specifying what their development requirements will be for a particular property. Such agreements must be approved by the County Council.

While not used by many jurisdictions any more, Whatcom County has continued to use them. Yet we have no code specifying how one applies for one or how they're processed or decided on. Therefore, if Whatcom County wants to continue to allow them, staff believes we ought to have some code describing what development agreements may be used for and how they're processed. Thus, we're proposing new §22.05.029.

Moving all Personal Wireless Service Facilities processing exceptions into one section (new WCC §22.05.034)

The County adopted specific regulations for the processing of personal wireless service facilities in 2014 in response to updated federal regulations. The federal regulations contained requirements specific to the processing of such facilities in order to standardize such regulations across all jurisdictions, ensuring that cellular service would be ubiquitous. And though most of our personal wireless service facilities regulations are contained in WCC Chapter 20.13, the processing regulations were interspersed throughout WCC Title 22 as exceptions to our standard processing rules. Unfortunately, being interspersed in all the various sections makes it difficult to find personal wireless service facilities processing rules.

Thus, staff is proposing to move all of the disparate processing rules for personal wireless service facilities into one consolidated section, §22.05.034. The specific rules are not being changed, however.

Transferring the responsibility of posting notices to the applicant, rather than staff (22.05.070(4)(b))

Many permit or action types require that notices (of application, hearings, SEPA, etc.) be posted on the subject property so that the public is aware of proposed development. The code currently requires the County to post such notices, and our staff does so, though it is quite time consuming. Most jurisdictions have switched to requiring applicants do the posting, to specific standards, and provide an affidavit of posting attesting that it has been done. Staff proposes amendments that would follow suit, which would provide more time for staff to do permit review.

IV. Comprehensive Plan Evaluation

The proposed amendments are consistent with Comprehensive Plan's Goal 2D to "Refine the regulatory system to ensure accomplishment of desired land use goals in a fair and equitable manner." Staff finds no policies with which these amendments would be inconsistent.

V. Proposed Findings of Fact and Reasons for Action

It is recommended the Planning Commission adopt the following findings of fact and reasons for action:

1. On May 10, 2023, the governor signed SSB 5290 approving amendments to RCW 36.70B to combat the state's housing crisis. The bill encourages local governments to streamline their permitting processes for new housing. The provisions in Section 7, which include the new permit review timelines and annual reporting requirements, become effective on January 1, 2025.
2. The provisions of SSB 5290 necessitate revising some of Whatcom County's permit processing code (WCC Title 22) as well as Planning and Development Services' processes so as to meet its requirements. Additional amendments are being made to make the permitting process more efficient.
3. Whatcom County Planning and Development Services has submitted an application to make various amendments to the Whatcom County Code (WCC) to comply with the requirements of SSB 5290, as well as making other corrections, updates, and clarifications to the County's permitting processes.
4. This project is exempt from SEPA pursuant to WAC 197-11-800(19).
5. Notice of the subject amendment was submitted to the Washington State Department of Commerce on August 27, 2024, for their 60-day review. No comments were received to date.
6. The Planning Commission held work session on September 12, 2024, and a duly noticed public hearing on the proposed amendments on August 26, 2024.
7. The County Council held a duly noticed public hearing on the proposed amendments on [REDACTED], 2024.
8. The amendments are consistent with Comprehensive Plan Policy Goal 2D to "refine the regulatory system to ensure accomplishment of desired land use goals in a fair and equitable manner." There are no policies with which these amendments would be inconsistent.

VI. Proposed Conclusions

1. The amendments are in the public interest.
2. The amendments are consistent with the Whatcom County Comprehensive Plan.

VII. Recommendation

Planning and Development Services recommends that the Planning Commission approve the proposed amendments and Findings of Fact and forward its recommendation to County Council.

Attachments

1. Exhibit A – Proposed Code Amendments

BIAWC Comment Letter on Proposed Amendments to Implement SB 5290 (Local Permit Review), with PDS Responses

September 26, 2024

Whatcom County Planning Commission
Whatcom Planning & Development Services
5280 Northwest Drive
Bellingham, WA 98226

RE: Enacting Substitute Senate Bill 5290
Amendments to WCC Title 22 – Local Project Review

Dear Planning Commission Members:

Below are comments submitted by the Building Industry Association of Whatcom County regarding the drafting of amendments to Title 22 of the Whatcom County Code. Please consider these amendments as you deliberate on staff's recommendations relative to the state legislature's effort to improve permitting timelines.

General Comments:

Staff note on Page 3 of the staff report that the department proposed to **extend** a permit timeline from 14 to 28 days doubling the timeline. Staff state,

“Currently the WCC has a 14-day requirement within which the County must determine an application to be complete. SSB 5290 extends this to 28 days. Staff is proposing to amend 22.05.050(4) to comply with the state law.”

This is a specious argument. The 14-day limit within the County code also complies with state law. The more precise characterization would be, contrary to the legislative intent in SSB5290 to expedite permitting, staff seek to take advantage of state-wide legislation to thwart expedited permit review. Amending existing county code with a smaller time frame to provide staff extended time to make a preliminary determination does nothing to expedite permitting decisions.

The additional time claimed by staff becomes more suspect when staff propose to remove an entire class of review – critical areas – from the determination of a project permit application. It is generally accepted that the greatest delays in permitting occur with critical area reviews. The removal of such review from the project permit application process as applied against the ESS5290 timelines would seem to refute any argument supporting the expansion of a timeline and that the existing timeline, without further argument, is entirely sufficient.

Staff also dedicates much discussion to the Notice of Additional Requirements (NOARs). The discussion notes that staff issue NOARs in circumstances where application information is “incomplete, lacking, or just plain wrong.” Staff goes on to state that this process “devolves” into an endless loop with “piecemeal” submissions to NOAR requests. Noting that the county is limited by ESS5290 to no more than three NOARs, staff correctly notes “PDS must be very thorough in determining application completeness and in issuing NOARs” and that applicants must likewise be “thorough” in any response; applicants “will no longer be able to respond piecemeal.” Staff then ends the discussion with the veiled criticism that denials will become more common “until the consultant community becomes more

responsive.” This is a very curious statement toward the building community and is not helpful in any discussion of permit reviews.

Several of our consultant members and their builder clients note that it is not unusual for PDS staff to issue NOARs when it is evident staff clearly fail to exercise requisite care while reviewing an application. Each of these members recount incidents where NOARs arrived just prior to permit decision deadlines with information requests demonstrating staff either did not read the information provided in the application materials or failed to understand the significance of that information. In each instance, responses to staff requests were accomplished with simple citations to the original application and, without more, went on to be permitted. Future discussions criticizing an entire class of applicants might be better discussed in private with offending applicants and without denigrating an entire segment of the building community.

PDS Response: Planning and Development Services is eliminating our current prescreen process as it has resulted in over 700 requests in 2024 so far. The new application procedure will use the application completeness process as a way to review items traditionally accomplished through the prescreen process. Our goal is a timelier response from the County; however, additional time is necessary to conduct a thorough application completeness review. The longer completeness timeframe should result in fewer NOAR’s, because PDS will have the time necessary to identify missing items at the time of completeness review.

And finally, one of the purposes of SB 5290 is to create more consistent processes throughout the state so that no matter where one applies for a development permit one would generally know the process. PDS is proposing to adopt the state standard.

Against that backdrop, the Association would provide the following comments on specific amendments:

Comments on Permit Timeline Amendments

22.05.022(5): The subsection begins with the sentence, “In either case.” The subsection does not specify what “cases” to which the subsection refers. Subsection (3) provides that an applicant must submit a critical areas assessment report while subsection (4) states that an applicant may request Planning to make an initial determination of critical areas and, if found, the applicant must submit a critical areas assessment report. What is the “either case”? If the “either” refers to a finding that critical areas are or are not present, then subsection (5) should clearly state that condition.

Suggested Edit: ~~In either case,~~ The Director, upon receipt of a critical areas assessment report, shall then provide a written determination that critical areas . . .

PDS Response: The draft code has been modified to provide clarification as suggested. See revised Exhibit A.

22.05.023: This section could be organized better. Subsection (1) provides that the only exception to a site plan is a “waiver” by the Director, yet subsection (3) states that site plan review is not required in limited circumstances; you cannot require a waiver and simultaneously state that you are not requiring a site plan.

There seems to be some confusion in subsection (1) about what the Director is waiving. The second sentence states, “Where a site plan is submitted in conjunction with an application for a land use permit, it shall be reviewed as part of that project permit; otherwise, a *site plan approval application is required to be submitted, unless waived by the Director.* (Emphasis added.) Subsection (2) states that the Director can waive a *site plan review.* (Emphasis added.) The confusion arises in that it is not clear what the Director is waiving – is the Director waiving the “site plan approval application” or the “site plan review”? If these are two different items, and they appear to be, the language needs to be corrected to clarify what the Director is waiving: review, application, or both?

Suggested Edit: (1) Site plans are required, except as provided in 22.05.023(3) below, for many actions including land use permits and building permits to ensure the proposal meets development requirements and standards.

(2) The Director, in the Director’s sole discretion, may grant a written waiver of a site plan review ~~When~~ the scope and scale of a proposed development is sufficiently minimal that the Director determines a site plan review is not warranted, the Director may grant a written waiver of such review.

Subsection (3) should be written to avoid the double negative found in Subsection (3)(b): “do not result in nonconformance of.”

PDS Response: The draft code has been modified to provide clarification on both the exceptions to site plan reviews and the Director’s discretion. See revised Exhibit A.

22.05.024(1): There is a typo – including language not intended for the subsection.

Subsection (2): Rather than stating “literal enforcement,” it could read “enforcement reliant on strict construction of the code language results in unnecessary hardship”?

Subsection (3): do you have to include “(non-shoreline)”? It also seems unnecessary to specify “minor” and “major.” Perhaps:

There are two types of ~~(non-shoreline)~~ variances:

- (a) Minor variances ~~include those that~~ are unlikely to have impacts on surrounding properties . . .
- (b) Major variances are those that are not categorized as “Minor.”

Subsection (4) should clarify that the “spirit” of the Whatcom County code should be derived from the plain language of the code. Perhaps go further and explicitly state that the “spirit” is to grant property owners the greatest freedom to utilize their land as they see fit without undue impact or infringement on the public safety and welfare?

Subsection (5) should simply state that variances are not granted based “solely on financial considerations” and eliminate the redundant “monetary.”

PDS Response: The draft code has been modified in subsection (2) and (5) as suggested. The non-shoreline qualifier has been retained as shoreline variances are subject to different code sections with specific shoreline related criteria. And the distinction between variance types is retained as there *are* different types (administrative and quasi-judicial).

With regard to the “spirit” of the code, this is current code, with the intent of allowing variances for bulk and dimensional standards while also acknowledging the intent of various regulations. Variances are not

intended to “grant property owners the greatest freedom to utilize their land as they see fit without undue impact or infringement on the public safety and welfare,” but rather to allow an owner to enjoy the same rights as one’s neighbors when a property has unique circumstances or a change in code precludes that reasonable use.

22.05.029(3) should be amended to state that development agreements are entered at the sole discretion of the County Council. The decision table has been amended to state that development agreements are decided upon by the County Council and this section should reflect the amended table.

Subsection (9)(b) should be written to specify the “Director” rather than using the imprecise plural pronoun “their.” *E.g.*, “If the Director determines in the Director’s sole discretion . . .”

Subsection (9)(d) should be amended to specify exactly what part of “the County” must be provided property owner information or “the County” that will make the determination. It seems, from the language and the table, that this should be “the County Council”?

PDS Response: Subsections (3), (9)(b), and (9)(d) have been modified as suggested. See revised Exhibit A.

22.05.030: A section should never begin with an exception. The language should be stated in the positive, active voice and exceptions to the rule specified at the end of the general rule.

E.g., . . . [Section language] Level IV is considered the highest and Level I is considered the lowest process type. The provisions of the section do not apply to building permits.

PDS Response: PDS grammatically disagrees; the proposed code has not been modified.

22.05.050(4): This amendment – extending determination that an application is complete – is discussed in detail above. This amendment should be rejected for the reasons stated.

PDS Response: Refer to the 1st response above.

22.05.070(3)(h): The current ordinance provides, “The department may accept public comments at any time prior to the close of the open record public hearing, *or if there is no public hearing, prior to the decision on the project permit.*” (Emphasis added.) BIAWC members have commented that the advent of Artificial Intelligence, and the use of that tool by application opponents to continually flood decision makers with comment, the opportunity for an applicant to respond to voluminous and continuous comments is greatly impaired. The BIAWC maintains it would benefit applicants and staff to close public comment at a time when the applicant will have sufficient time to respond to “last-minute” comments and prior to any decision being made. The ability of citizens to continuously submit comments hinders the applicant from providing a comprehensive response and allows staff to give due consideration to an application after all arguments, including applicant’s responses, are submitted.

PDS Response: Though logistically troublesome as pointed out, for projects requiring a public hearing testimony can be provided up to and during the hearing process until it is closed; we cannot require that all testimony be submitted weeks before the hearing. For projects without a public hearing, it is difficult

to determine a date by which comments must be received by PDS and further limits public participation. PDS encourages public comment early in the process in an effort to address the concerns of the public within the timeframes of permit review.

22.05.070(4)(b): The ordinance contains a misplaced modifier that makes the interpretation of this section difficult. The ordinance states, “[Signs] shall be visible to adjacent property owners and passersby, *in a format conforming to the standards found in the department’s administrative manual.*” (Emphasis added.) One would presume that both the signs and the locations must adhere to standards found in the elusive Administrative Manual, however, the sentence as written clearly states that only the location must adhere to the published standards. The sentence should be rewritten to clearly provide that the signs, both in content and location, must adhere to the applicable formats.

PDS Response: The draft code has been modified as suggested. See revised Exhibit A.

It must also be noted that it is nearly impossible for a member of the public to find the current version of the Administrative Manual. A comprehensive internet search reveals an “Interim” Administrative manual for the Planning and Development Services Department, a manual adopted in 2018. A cursory review of that manual contains no obvious sign or location format for public notification via signage. If a document essential to managing compliance is referenced, its location is not readily apparent should be referenced and made clear.

PDS Response: The Administrative Manual is always available upon request. Once the SB 5290 code amendments have been adopted, PDS will work on updating the Administrative Manual. The manual is several years old and does not reflect the substantial amount of changes PDS has faced since 2018. A new permit tracking system has been implemented, PDS shifted to digital submittals through the Covid-19 pandemic, and now with SB 5290 permit processes are changing again. A thorough review and update of the manual will occur once the code amendments are complete and PDS begins to fully use the capabilities of the permit tracking system.

22.05.070(5): This section provides that all public comments “must be received by the department by 4:30 p.m. on the last day of the comment period. However, as discussed above, public comment in many instances is open until a permitting decision is made. This section should be rewritten to clarify in what situations this comment limitation applies.

PDS Response: RCW 36.70b.110(e) requires a minimum of a 14-day comment period and our code reflects this for all projects requiring a public notice. Public comment is also accepted up to and during the public hearing, which is also reflected in the proposed code. We agree it is preferable to have comments submitted for consideration early in the review process, but staff would rather address comments prior to the staff report or decision being issued than having the project appealed by someone who has not had their comments considered.

22.05.070(6): Again, it is not clear when the public comment closes relative to a SEPA decision, instead only providing that the County shall not issue the SEPA decision until public comment on the notice of application *closes*. If this is true, a closing date for public comment on applications, with sufficient time for applicant response, is imperative!

PDS Response: The timeframes for public comment relative to SEPA are provided by state statute. Public comments associated with a standard SEPA is 14 days followed by a 10-day appeal period. When the optional SEPA determination process is used the notice of application is combined with the SEPA notice, thus requiring only one 14-day comment period.

22.05.080(2)(b): There appears to be conflicting guidance in this ordinance. The opening sentence provides that an applicant has 90 days to respond to a Notice of Additional Requirements (NOAR). However, the next sentence states that if a response is not received in 60 days, the Department is automatically granted an additional 30 days in which to make decisions as provided in the legislation. This section could be much more clearly and positively stated:

Suggested Edit: “The applicant shall have ~~90~~ 60 days from the date of issuance of said notice to submit all required information. If an applicant fails to adequately respond to a written request for additional information (see WCC 22.05.080(2)) for more than 60 days, an additional 30 days shall be added to the time periods provided in WCC 22.05.130. In no event shall a response be submitted beyond 90 days except in instances where the applicant requests, and has received, and extension of time from the Director as provided in WCC 22.05.XXX.”

In addition to the time confusion, there suddenly appears a discussion concerning “non-responsiveness.” It would be much clearer if the discussion of non-responsiveness, and any consequences of such a determination, were contained in a separate subsection. Likewise, the Director’s discretionary decision to issue a one-time 90-day extension should be in a separate subsection and contain the various considerations the Director may utilize in exercising the Director’s discretion.

PDS Response: SB 5290 grants applicants 60 days to respond for a request of additional information; PDS is suggesting that 90 days may be more appropriate and helpful to the development community. The legislation further specifies that if the applicant fails to respond within 60 days the County may add 30 additional days to *the County’s* timeframe.

The non-responsiveness language is from SB 5290 and is mimicked in the draft code. In fact, the entirety of this section mirrors the language from SB 5290, with some minor edits to help clarify.

22.05.080(2)(c): This subsection contains the limitation of three NOARs. This is important as it necessarily begs the question of the consequences of a NOAR issued by staff when the issuance of the NOAR is in error. As stated in the opening comments, staff has chosen to blame shoddy work by “consultants” as the basis for issuing NOARS. The Building Industry disagrees with this assessment.

Several of our members have experienced situations in which staff issue NOARs as permit decision deadlines approach and where it is demonstrably evident that staff failed to adequately review and consider an application. In such circumstances, members have simply responded to the NOAR with citations to the original application where staff’s questions are already answered. The Building Industry strongly suggests that in such instances, the NOAR not be credited to the applicant and, further, that such an “erroneous” NOAR will not suspend the application deadlines.

Along this discussion, BIAWC members note that in many instances, the need for a NOAR is minimal and, indeed, the questions staff have could easily be answered with a single e-mail or phone call to request the clarification or location of the information contained within the application already submitted. Given

that staff have now publicly criticized the building industry of work that is “incomplete, lacking, of just plain wrong” together with being non-responsive, the industry now suggests that, likewise, applicants should have assurance that staff is requesting an NOAR only after complete and thorough review of an application and staff has a genuine need for information not already contained in the application materials.

It should be noted for completeness that Ordinance 22.05.082(1) explicitly provides that an applicant cannot request suspension of application review “to extend the time for responding to a NOAR (WCC 22.05.080(2)).” Likewise, staff should be explicitly prohibited from issuing a NOAR to suspend the application review time.

PDS Response: The existing 120-day permit review timeframe is not always being met in our current process and in some cases is far exceeded. However, in addition to the proposed code amendments, PDS is looking at process improvements to address timeliness. Internal changes include shifting permit coordinating away from the technical review staff, consolidating intake for all project types, and fully utilizing our permit tracking system capabilities.

22.05.080(3): This subsection states that the “burden of proof” is on the applicant “that the proposed development is consistent with all applicable policies and regulations.” There are three general legal “burdens of proof” that apply to administrative decisions, so any discussion of the burden should clearly define what burden applies; two additional burdens are found in legal processes, but those levels are not typically applicable to administrative proceedings. It would be unusual that “beyond a reasonable doubt” would apply, but that would leave two levels of proof: clear and convincing evidence and preponderance of evidence. If staff want to discuss burdens of proof, then this subsection should clearly delineate what level is appropriate so applicants know what level of scrutiny staff will apply to the administrative review.

PDS Response: While courts may have differing burdens of proof, land use codes generally do not; nor do the Whatcom County Hearing Examiner rules. This is standard language in most codes. Under advisement of our attorney, we’re leaving the text as is.

22.05.130(1)(b): This subsection excludes time periods applicable to NOARs and the responses to such notices. The County should reinforce the 60-day period to provide additional information and, if the applicant chooses to go to 90 days, the extended time period that will result.

PDS Response: No change has been proposed to this section. The applicant will have up to 90 days to respond to a NOAR, but can always respond more quickly.

Thank you for the opportunity to provide these comments. If you have questions concerning any of the information submitted, please do not hesitate to contact me at the above telephone number or email.

Sincerely,

R. Perry Eskridge
Government Affairs Director

cc: File/Government Affairs/Board of Directors
RPE/

Exhibit A: Proposed Amendments to Implement SB 5290 (Local Permit Review)

Editor's Note: Amendments already approved by Council through the 2020 Shoreline Management Program Update (Resolution 2022-027) though not yet adopted into code, as we are still awaiting Department of Ecology approval, are highlighted in yellow, while new proposed amendments are not. (If using Word, if you hover your mouse over the amendment it will either say "SMP Update" or "CStrong," which are the new edits.)

TITLE 20 ZONING

Chapter 20.97 Definitions

20.97.190 "S" definitions.

(...)

Site Plan. A site plan is a scale drawing of property and the development or other land use action being proposed. A site plan graphically describes existing and proposed conditions, providing locations, measurements, descriptions, etc. The main purpose of a site plan is to show how the intended land use relates to the features of a parcel and its surrounding area, giving permit reviewers, decision makers, and the public the ability to verify compliance with Whatcom County Code. For a full list of items to be shown on a site plan, refer to Planning and Development Services' Administrative Manual.

(...)

TITLE 22 LAND USE AND DEVELOPMENT

Chapter 22.05 Project Permit ~~Procedures~~

22.05.010 Purpose and applicability.

- (1) The purpose of this chapter is to ~~combine and consolidate~~ specify the application, review, and approval processes for project permits and appeals ~~as defined in WCC Chapter 20.97 (Definitions) WCC~~. It is further intended for this chapter to comply with the provisions of Chapter 36.70B RCW, and federal laws and regulations relating to personal wireless service facilities (47 USC Sections 253, 332, and 1455 and 47 CFR Sections 1.6001 through 1.6100). These procedures provide for a consolidated land use permit process and integrate the environmental review process with the procedures for review of land use decisions.
- (2) This chapter applies to the processing of project permit applications for development and appeals related to the provisions of WCC Title 15, Buildings and Construction; WCC Title 16, Environment; WCC Title 17, Flood Damage Prevention; WCC Title 20, Zoning; WCC Title 21, Land Division Regulations; and WCC Title 23, Shoreline Management Program. The provisions of this chapter shall apply to all project permit applications as defined in RCW 36.70B.020, and other administrative decisions, as listed ~~in the table~~ in WCC 22.05.020 ~~Table 1~~.

- ~~(3)~~ For permit applications for personal wireless service facilities some of these regulations are modified by WCC 22.05.190, as federal regulations preempt some local regulations and processes.
- ~~(2)~~(4) This chapter also specifies processes for non-permit actions.
- ~~(3)~~(5) The meaning of words used in this chapter shall be as defined in WCC ~~Title Chapters 20~~ 97 (Definitions), ~~or 23.60 (Definitions)~~ or Chapter 20.13 (Personal Wireless Service Facilities) as appropriate to the permit being applied for.

22.05.014 Obligations of property owner, occupant, and applicant.

- (1) It is the intent of this title to place the obligation of complying with the requirements of this title, Title 15 (Buildings and Construction), Title 16 (Environment), Title 20 (Zoning), Title 21 (Land Division Regulations), Title 23 (Shoreline Management Program), and all other applicable laws and regulations upon the owner, and jointly and severally upon the occupant of the land and buildings within its scope.
- (2) It is the responsibility of an applicant to provide accurate and complete information and plans to comply with the requirements of the cited titles and all applicable laws and regulations. The eCounty is not responsible for the accuracy of information or plans provided to the eCounty for review or approval.
- (3) The department, or any other eCounty department reviewing an application, may inspect any development activity to enforce the provisions of this title. By submitting an application to the eCounty, the applicant consents to entry upon the site by the eCounty during regular business hours for the purpose of making reasonable inspection to verify information provided by the applicant and to verify that work is being performed in accordance with the approved plans and permits and the requirements of this title. Consent to entry extends from the date of application to the date of final action by the eCounty.

22.05.020 Development Review & Approval Processes~~Project permit processing table.~~

- (1) Whatcom County Code requires project permits, approvals, or other actions to undergo different processes. Some require little to no public participation; others require more public participation, including noticing and public hearings before the Hearing Examiner; and some require a legislative action by the County Council. Similarly, different types of appeals are heard by different appeals bodies.
- (2) However, these various processes can be generally classified into five basic types, identified below. These descriptions are generalized, as is Table 1, and the specific language of the code shall control if there is a contradiction. Type I is considered the lowest process type and Type V is considered the highest.
 - (a) A **Type I** process is an administrative review and decision-making process that requires no public participation. Review and approval of these actions are performed by the Director and are appealable to the Hearing Examiner.
 - (b) A **Type II** process is an administrative review and decision-making process that requires public noticing but no public hearing. Review and approval of these actions are performed by the Director and are appealable to the Hearing Examiner, though some to the Shorelines Hearings Board and some to a Court of Competent Jurisdiction, as specified in Table 1.

(c) A **Type III** process is a review and decision-making process that requires public noticing and a public hearing before the Hearing Examiner, who is the decision maker. The Hearing Examiner's decisions are generally appealable to Superior Court, though some to the Shorelines Hearings Board and some to a Court of Competent Jurisdiction, as specified in Table 1.

(d) A **Type IV** process is a review and decision-making process for quasi-judicial actions that requires public noticing, an open-record public hearing before the Hearing Examiner, and a final decision by the County Council. In these instances, the Hearing Examiner makes a recommendation to the County Council, who holds a closed-record hearing before making the final decision. Their decisions on quasi-judicial actions are appealable to Superior Court.

(e) A **Type V** process is a review and decision-making process for legislative actions that requires public noticing and an open-record public hearing before the Planning Commission and then County Council, who is the decision maker. Decisions on legislative actions are appealable to the Western Washington Growth Management Hearings Board.

(3) Table 1. Land Use Review and Approval Process Table **Table 1. Project Permit Processing Table**

Marked boxes in the table below indicate the required general steps for processing all project permit applications or administrative actions. Check marks indicate a step is required; reference letters refer to the notes in subsection (2) of this section. The requirements for each step listed in the top row of the table are provided in WCC 22.05.040 through 22.05.160, as indicated. Specific requirements for each project permit can be found through the references given in the table.

Permit Application Processing Table	WCC Reference for Specific Requirements	Preapplication Required (see 22.05.040)	Determination of Completeness Required (see 22.05.050)	Notice of Application Required (see 22.05.070)	Site Posting Required (see 22.05.080)	Notice of Open Record Hearing Required (see 22.05.090)	Open Record Hearing Held By: (see 22.05.090)	County Decision Maker (see 2-11.210, 22.05.120)	Appeal Body (see 2-11.210, 22.05.160, 23.60.150(H))
Type I Applications (Administrative Decision with No Public Notice or Hearing)									
Boundary Line Adjustment	21.03		✓					Director	Hearing Examiner
Building Permit	15.04	✓(H)	✓					Director	Hearing Examiner (I)
Commercial Site Plan Review	-		✓					Director	Hearing Examiner
Exempt Land Division	21.03		✓					Director	Hearing Examiner
Floodplain Development Permit	Title 17							Director	Hearing Examiner
Land Disturbance Permit	15.04 and 20.80		✓					Director	Hearing Examiner
Lot of Record/Lot Consolidation	20.83 and 20.97		✓					Director	Hearing Examiner
Nonconforming Use	20.83		✓					Director	Hearing Examiner
Removal of Forest Practices Development Moratorium	20.76.220(2)							Director	Hearing Examiner

PLN 2024-00003 – Exhibit A: Proposed Amendments to Implement SB 5290 (Local Permit Review)

August 26, 2024

Permit Application Processing Table	WCC Reference for Specific Requirements	Preapplication Required (see 22.05.040)	Determination of Completeness Required (see 22.05.050)	Notice of Application Required (see 22.05.070)	Site Posting Required (see 22.05.080)	Notice of Open Record Hearing Required (see 22.05.090)	Open Record Hearing Held By: (see 22.05.090)	County Decision Maker (see 2.11.210, 22.05.120)	Appeal Body (see 2.11.210, 22.05.160, 23.60.150(4))
Shoreline Exemption	22.05 & 0723.60	✓(a)	✗					Director	Hearing Examiner
Site Plan Review/ Notification of Activity	Title 16		✗					Director	Hearing Examiner
Zoning Interpretation	22.20							Director	Hearing Examiner
Permitted Personal Wireless Service Facilities	20.13		✗					Director	Court of competent jurisdiction
Type II Applications (Administrative Decision with Public Notice; No Public Hearing)									
Administrative Use	22.05.028	✗	✗	✗	✗		-	Director	Hearing Examiner
Administrative Use for Personal Wireless Service Facilities	20.13		✗	✗	✗		-	Director	Court of competent jurisdiction
Lot Consolidation Relief	20.83.070		✗	✗	✗		-	Director	Hearing Examiner
Reasonable Use (b)	16.16		✓	✓	✓			Director	Hearing Examiner
Shoreline Substantial Development Permit (ca)	23.6022.05 & 07	✓(a)	✗	✗	✗		-	Director (db)	Shorelines Hearings Board (fb)
Shoreline Conditional Use for single family development, uses, and activities (ca)	23.6022.05 & 07	✓(a)	✗	✗	✗		-	Director (db)	Hearing Examiner
Minor Zoning or Critical Areas Variance (outside of shoreline jurisdiction); Minor	22.05.024	✗	✗				-	Director	Hearing Examiner
Zoning or Critical Areas Variance- Minor for Personal Wireless Service Facilities	22.05.024		✗				-	Director	Court of competent jurisdiction
Short Subdivision	21.04	✗	✗	✗	✗		-	Director	Hearing Examiner
Type III Applications (Hearing Examiner Decision with Public Notice and Public Hearing)									
Conditional Use	22.05.026	✗	✗	✗	✗	✓	Hearing Examiner	Hearing Examiner	Superior Court
Conditional Use for Personal Wireless Service Facilities	20.13		✗	✗	✗	✗	Hearing Examiner	Hearing Examiner	Court of competent jurisdiction
Floodplain Development Variance	Title 17		✗	✗	✗	✗	Hearing Examiner	Hearing Examiner	Superior Court

PLN 2024-00003 – Exhibit A: Proposed Amendments to Implement SB 5290 (Local Permit Review)

August 26, 2024

Permit Application Processing Table	WCC Reference for Specific Requirements	Preapplication Required (see 22.05.040)	Determination of Completeness Required (see 22.05.050)	Notice of Application Required (see 22.05.070)	Site Posting Required (see 22.05.080)	Notice of Open Record Hearing Required (see 22.05.090)	Open Record Hearing Held By: (see 22.05.090)	County Decision Maker (see 2.11.210, 22.05.120)	Appeal Body (see 2.11.210, 22.05.160, 23.60.150(4))
Long Subdivision	21.05	✓	✓	✓	✓	✓	Hearing Examiner	Hearing Examiner (gc)	Superior Court
Binding Site Plan	21.07	✓	✓	✓	✓	✓	Hearing Examiner	Hearing Examiner (gc)	Superior Court
Reasonable Use (bc)	16.16	✓	✓	✓	✓	✓	Hearing Examiner	Hearing Examiner	Superior Court
Removal of Forest Practices Development Moratorium	20.76.220(5)(b)		✓	✓	✓	✓	Hearing Examiner	Hearing Examiner	Superior Court
Shoreline Conditional Use	22.05 & 0723.60	✓(a)	✓	✓	✓	✓	Hearing Examiner	Hearing Examiner (db)	Shorelines Hearings Board (ht)
Shoreline Substantial Development Permit	22.05 & 0723.60	✓(a)	✓	✓	✓	✓	Hearing Examiner	Hearing Examiner (db)	Shorelines Hearings Board (ht)
Shoreline Variance	22.05 & 0723.60	✓(a)	✓	✓	✓	✓	Hearing Examiner	Hearing Examiner (db)	Shorelines Hearings Board (ht)
Major Zoning or Critical Areas Variance (outside of shoreline jurisdiction), Major	22.05.024 or 16.16.273	✓	✓	✓	✓	✓	Hearing Examiner	Hearing Examiner	Superior Court
Zoning or Critical Areas Major Variance, Major for Personal Wireless Service Facilities	22.05.024 or 16.16.273		✓	✓	✓	✓	Hearing Examiner	Hearing Examiner	Court of competent jurisdiction
Type IV Applications (County Council Decision with Public Notice and Public Hearing)									
Development Agreement	2.11.205	✓	✓	✓	✓	✓	Hearing Examiner	County Council	Superior Court
Major Project Permit	20.88	✓	✓	✓	✓	✓	Hearing Examiner	County Council	Superior Court
Planned Unit Development	20.85	✓	✓	✓	✓	✓	Hearing Examiner	County Council	Superior Court

Check marks indicate a step is required; reference letters refer to the notes in subsection (2) of this section.

Table 1. Land Use Review and Approval Process Table

Permit/Approval/Action (CASE TYPE) (see footnote a)	Process Type	WCC Reference for Specific Requirements	Preapplication Required (see 22.05.040)	Determination of Completeness Required (see 22.05.050)	Notice of Application Required (see 22.05.070)	Site Posting Required (see 22.05.070)	Notice of Open Record Hearing Required (see 22.05.090)	Open Record Hearing Held By: (see 22.05.090)	County Decision Maker (see 22.05.120, 2.11.210)	Appeal Body (see 22.05.160, 2.11.210)
Building Permits										
Building Permits (SFR/COM)	I	15.04	✓ (c)	✓					Director	Hearing Examiner
Ancillary Building Permits	I	15.04		✓					Director	Hearing Examiner
• Manufactured Homes (MOB)	I	15.04		✓					Director	Hearing Examiner
• Detached Accessory Structures (DET)	I	15.04		✓					Director	Hearing Examiner
• Mechanical (MEC-C/MEC-R)	I	15.04		✓					Director	Hearing Examiner
• Plumbing (PLB-R/PLB-C)	I	15.04		✓					Director	Hearing Examiner
• Fire (FIR, FIRE-CON, FIRE-OP, FIRE-OCC)	I	15.04	✓ (c)	✓					Director	Hearing Examiner
Use Permits										
Site Plan Approval (SPR)	I	22.05.023		✓					Director	Hearing Examiner
Administrative Uses (ADM)	II	22.05.028	✓	✓	✓	✓		-	Director	Hearing Examiner
Conditional Uses (CUP)	III	22.05.026	✓	✓	✓	✓	✓	Hearing Examiner	Hearing Examiner	Superior Court
Personal Wireless Service Facilities Use Permits										
Eligible Facility Request (COM)	I	20.13		✓					Director	Court of competent jurisdiction
Small Wireless Facilities (ADM)	II	20.13		✓	✓	✓			Director	Court of competent jurisdiction
Macro Wireless Facilities (CUP)	III	20.13		✓	✓	✓	✓	Hearing Examiner	Hearing Examiner	Court of competent jurisdiction
Shoreline Permits										
Shoreline Exemptions (SHX)	I	22.07.020		✓					Director	Hearing Examiner

PLN 2024-00003 – Exhibit A: Proposed Amendments to Implement SB 5290 (Local Permit Review)

August 26, 2024

Permit/Approval/Action (CASE TYPE) (see footnote a)	Process Type	WCC Reference for Specific Requirements	Preapplication Required (see 22.05.040)	Determination of Completeness Required (see 22.05.050)	Notice of Application Required (see 22.05.070)	Site Posting Required (see 22.05.070)	Notice of Open Record Hearing Required (see 22.05.090)	Open Record Hearing Held By: (see 22.05.090)	County Decision Maker (see 22.05.120, 2.11.210)	Appeal Body (see 22.05.160, 2.11.210)
Shoreline Substantial Development (SHR)										
• For single-family residential, agricultural, or commercial forestry projects or other projects whose value is less than \$500K	II	22.07.030		✓	✓	✓			Director (b)	Shorelines Hearings Board
• If project value exceeds \$500K (except for single-family residential, agricultural, or commercial forestry projects) or requires an EIS or a variance	III	22.07.030	✓	✓	✓	✓	✓	Hearing Examiner	Hearing Examiner (b)	Shorelines Hearings Board
Shoreline Conditional Use (SHC) for:										
• Single-family development, uses, and activities	II	22.07.040		✓	✓	✓			Director (b)	Hearing Examiner
• All other development, uses, and activities	III	22.07.040	✓	✓	✓	✓	✓	Hearing Examiner	Hearing Examiner (b)	Shorelines Hearings Board
Shoreline Variances (SHV)	III	22.07.050	✓	✓	✓	✓	✓	Hearing Examiner	Hearing Examiner (b)	Shorelines Hearings Board
Land Division Permits & Approvals										
Boundary Line Adjustments (BLA)		21.03								
• Preliminary	I			✓					Director	Hearing Examiner
• Alterations	I			✓					Director	Hearing Examiner
• Final	I								Director	Hearing Examiner
Exempt Land Divisions (EXE)		21.03								
• Preliminary	II		✓	✓	✓	✓			Director	Hearing Examiner
• Final	I								Director	Hearing Examiner
Short Plats (SSS)		21.04								
• Preliminary	II		✓	✓	✓	✓			Director	Hearing Examiner
• Engineering Plans	I									

PLN 2024-00003 – Exhibit A: Proposed Amendments to Implement SB 5290 (Local Permit Review)

August 26, 2024

Permit/Approval/Action (CASE TYPE) (see footnote a)	Process Type	WCC Reference for Specific Requirements	Preapplication Required (see 22.05.040)	Determination of Completeness Required (see 22.05.050)	Notice of Application Required (see 22.05.070)	Site Posting Required (see 22.05.070)	Notice of Open Record Hearing Required (see 22.05.090)	Open Record Hearing Held By: (see 22.05.090)	County Decision Maker (see 22.05.120, 2.11.210)	Appeal Body (see 22.05.160, 2.11.210)
• Alterations	II		✓	✓	✓	✓			Director	Hearing Examiner
• Final	I								Director	Hearing Examiner
Agricultural Short Plats (SSS)		21.04.180								
• Preliminary	II		✓	✓	✓	✓			Director	Hearing Examiner
• Engineering Plans	I									
• Alterations	II		✓	✓	✓	✓			Director	Hearing Examiner
• Final	I									
Subdivisions (LSS)										
• Preliminary	III	21.05	✓	✓	✓	✓	✓	Hearing Examiner (d)	Hearing Examiner	Superior Court
• Engineering Plans	I									
• Alterations	III	21.05.110	✓	✓	✓	✓	✓	Hearing Examiner (d)	Hearing Examiner	Superior Court
• Final	I	21.06								
Binding Site Plans (BSP)										
• Preliminary	III	21.07	✓	✓	✓	✓	✓	Hearing Examiner (d)	Hearing Examiner	Superior Court
• Engineering Plans	I									
• General BSP	I	21.08								
• Specific BSP	I	21.08								
Nonconforming Uses & Lots Approvals										
Affidavit of Nonconforming Use (NON)	I	20.83.130		✓					Director	Hearing Examiner
Lot of Record Affidavit (LOR)	I	20.83.060		✓					Director	Hearing Examiner
Lot Consolidation (LOR)	I	20.83.070		✓					Director	Hearing Examiner
Lot Consolidation Relief (LOR)	II	20.83.070		✓	✓	✓			Director	Hearing Examiner
Conversion of a Nonconforming Residential Use to a Boarding Home, Mental Health Facility, or Substance Abuse Facility (COM)	I	20.83.010		✓					Director	

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PLN 2024-00003 – Exhibit A: Proposed Amendments to Implement SB 5290 (Local Permit Review)

August 26, 2024

Permit/Approval/Action (CASE TYPE) (see footnote a)	Process Type	WCC Reference for Specific Requirements	Preapplication Required (see 22.05.040)	Determination of Completeness Required (see 22.05.050)	Notice of Application Required (see 22.05.070)	Site Posting Required (see 22.05.070)	Notice of Open Record Hearing Required (see 22.05.090)	Open Record Hearing Held By: (see 22.05.090)	County Decision Maker (see 22.05.120, 2.11.210)	Appeal Body (see 22.05.160, 2.11.210)
Expansion of a Nonconforming Use by Addition or Enlargement (CUP)	III	20.83.020	✓	✓	✓	✓	✓	Hearing Examiner	Hearing Examiner	Superior Court
Change from one Nonconforming Use to another (CUP)	III	20.83.040	✓	✓	✓	✓	✓	Hearing Examiner	Hearing Examiner	Superior Court
Forest Practices Permits & Approvals										
Forest Practices Permits (FPA) (processed as Land Fill and Grade Permit: see below)										
Conversion Option Harvest Plan Approval (COHP)	I	20.76.110		✓					Director	Director
Lifting of a Forest Practices 6-Year Development Moratorium (LFG) (processed as Land Fill and Grade Permit: see below)	I	20.76.220								
Miscellaneous Permits										
Land Fill and Grade (LFG)/ Forest Practices Permits (FPA)	I	15.04.050 20.80.730		✓					Director	Hearing Examiner
Land Clearing (Notice of Activity) (LCP)				✓					Director	Hearing Examiner
Floodplain Development Permits (COM/SFR)	I	17.12		✓					Director	Hearing Examiner
Tree Removal Permits (processed as a LCP)	I	20.51.430 20.71.354 20.72.653(3)		✓					Director	Hearing Examiner
Sign Permits (COM)	I	20.80.410		✓					Director	Hearing Examiner
Miscellaneous Non-Permit Reviews, Approvals, & Actions										
Critical Area Reviews & Determinations (CARD)	I	22.05.022		✓						
State Environmental Policy Act (SEPA) Reviews (SEP)	II	16.08		✓	✓	✓			SEPA Official (Director)	Hearing Examiner
Critical Areas Notification of Activity (LCP)	I	16.16.235		✓					Director	Hearing Examiner
Code Interpretations	I	22.20							Director	Hearing Examiner
Mitigation As-Built & Monitoring (MIT)	I	16.16.260							Director	Hearing Examiner

Permit/Approval/Action (CASE TYPE) (see footnote a)	Process Type	WCC Reference for Specific Requirements	Preapplication Required (see 22.05.040)	Determination of Completeness Required (see 22.05.050)	Notice of Application Required (see 22.05.070)	Site Posting Required (see 22.05.070)	Notice of Open Record Hearing Required (see 22.05.090)	Open Record Hearing Held By: (see 22.05.090)	County Decision Maker (see 22.05.120, 2.11.210)	Appeal Body (see 22.05.160, 2.11.210)
Surface Mining Annual Registration (SM(year mine started)-xxxx)	I	20.80.900							N/A	N/A
Pre-Application Meeting (PRE)		22.05.040							N/A	N/A
Variations (Non-Shoreline) (e)										
Minor Variations (outside of shoreline jurisdiction) (VAR-MIN)	II	22.05.024	✓	✓	✓	✓			Director	Hearing Examiner
Minor Variance for Personal Wireless Service Facilities (outside of shoreline jurisdiction) (VAR- MIN)	II	22.05.034		✓	✓	✓			Director	Court of competent jurisdiction
Major Variations (outside of shoreline jurisdiction) (VAR-MAJ)	III	22.05.024 16.16.273	✓	✓	✓	✓	✓	Hearing Examiner	Hearing Examiner	Superior Court
Reasonable Use Exceptions (RUE)	III	16.16.270	✓	✓	✓	✓	✓	Hearing Examiner	Hearing Examiner	Superior Court
Council Quasi-Judicial Approvals & Permits										
Development Agreements (DEV)	IV	22.05.029	✓	✓	✓	✓	✓	Hearing Examiner	County Council	Superior Court
Major Project Permits (MPP)	IV	20.88	✓	✓	✓	✓	✓	Hearing Examiner	County Council	Superior Court
Planned Unit Developments (PUD)	IV	20.85	✓	✓	✓	✓	✓	Hearing Examiner	County Council	Superior Court
Council Legislative Actions										
County Code Amendments (PLN)	V	22.10					✓	Planning Commission and County Council	County Council	Growth Management Hearings Board
Zoning Map Amendments (Rezones) (PLN)	V	22.10					✓	Planning Commission and County Council	County Council	Growth Management Hearings Board
Comprehensive Plan Text Amendments (PLN)	V	22.10					✓	Planning Commission and County Council	County Council	Growth Management Hearings Board
Comprehensive Plan Land Use Map Amendments (PLN)	V	22.10					✓	Planning Commission and County Council	County Council	Growth Management Hearings Board

~~(1)~~(4) Notes on Table 1 Project Permit Processing Table Notes. As indicated in Table 1 in subsection (1) of this section, certain project permits and approvals are subject to the following additional requirements:

- ~~(a)~~ Preapplication conference subject to WCC Title 23, Shoreline Management Program.
- ~~(b)~~ Single-family residential uses in critical areas or critical area buffers, except all uses in geological hazardous areas and setbacks.
- ~~(c)~~ Whether a public hearing is required is Shoreline permit public hearing decision determined pursuant to 22.07.030(A) (Shoreline Substantial Development Permits) WCC Title 23, Shoreline Management Program. If a public hearing is required the shoreline permit shall be processed as a Type III application.
- ~~(a)~~ If a project requires SEPA review, it will change the process type the project permit must undergo from a Type I to Type II.
- ~~(d)~~(b) Pursuant to Chapters 23.60 and 23.70 WCC 22.07.060, final administrative determinations or decisions, as appropriate, shall be filed with, or approved by, the Washington State Department of Ecology.
- ~~(e)~~ All reasonable use exception applications in geological hazardous areas and setbacks and all non-single-family residential uses in critical areas or critical area buffers.
- ~~(c)~~ Building permit preapplication conference, subject to WCC 15.04.020(C)(1).
- ~~(e)~~(d) The ~~H~~earing ~~e~~xaminer may choose to consult with the development standards technical advisory committee concerning technical matters relating to land division applications.
- ~~(h)~~(e) A variance request may change the process type for the project permit. See WCC 22.05.024.
- ~~(i)~~ Whatcom County shall consider an appeal of a decision on a shoreline substantial development permit, shoreline variance, or shoreline conditional use only when the applicant waives his/her right to a single appeal to the Shorelines Hearings Board. When an applicant has waived his/her right to a single appeal, such appeals shall be processed in accordance with the appeal procedures of WCC 23.60.150(H).

22.05.022 Critical Areas Review and Determination.

- 1) Prior to the submittal of any application for any septic system or water availability approvals to the Health Department, or preapplication conference or project or building permits to Planning and Development Services, and unless waived per subsection (6), applicants shall undergo a critical areas review.
- 2) Such review determines the absence, or presence and type, of critical areas and/or their buffers on-site and adjacent to a subject property that may affect the design of intended development. The evaluation area can either be a portion of the subject parcel, the entirety of the subject property, and/or any offsite areas that may be impacted by the proposed development. A critical areas review and determination is not considered a permit, as it does not allow development, but is a precursor to designing a project.

- 3) In applying for a critical areas review and determination:
- a) Applicants shall submit a critical areas assessment report prepared by a qualified consultant for review and acceptance by the Director pursuant to WCC Chapter 16.16. The Director may require revisions or amendments to the critical areas assessment report in order for such to be deemed acceptable.
 - b) Alternatively, applicants may request Planning and Development Services to perform an initial determination of presence or absence of critical areas. If it is determined that critical areas and/or their buffers are present, the applicant shall submit a critical areas assessment report pursuant to subsection (3).
- 4) The Director shall then provide a written determination that critical areas and/or their buffers either are or are not present on the subject property and, if present, a map of their defined limits as provided in the critical areas assessment report. The Director's written determination regarding (a) the absence of critical areas and/or their buffers or (b) acceptance of a critical areas assessment report as complete and accurate shall be valid for a period of 5 years from the date of such determination.
- 5) When the scope and scale of proposed development is sufficiently minimal that the Director determines a critical areas review and determination is not warranted, the Director may grant a written waiver of such review. Generally, waivers will be granted for projects that do not expand an existing structure's footprint or add bedrooms or sleeping quarters, or are on a lot platted within the last 5 years, though other cases may present themselves.
- 6) Appeals of a critical areas review and determination shall be considered in conjunction with an appeal of a proposed project or building permit.

22.05.023 Site Plan Approval.

- (1) Except as provided below, site plan approval is required for many actions, including land use and building permits, to ensure the proposal meets development requirements and standards. Where a site plan is submitted in conjunction with an application for a land use permit, it shall be reviewed as part of that project permit; otherwise, a site plan approval application is required to be submitted.
- (2) Site plan approval is not required for interior alterations unless they result in the following:
- (a) Additional sleeping quarters or bedrooms;
 - (b) Nonconformity with Federal Emergency Management Agency substantial improvement thresholds; or,
 - (c) An increase in the total square footage or valuation of the structure that requires upgraded fire access or fire suppression systems.
- (3) Additionally, when the scope and scale of proposed development is sufficiently minimal the Director in their sole discretion may grant a written waiver of such review.

22.05.024 Variances (Non-Shoreline).

- (1) A variance is not a permit, but rather a request to deviate. Variances from the standards terms of WCC Title 20 (Zoning) or Chapter 16.16 WCC (Critical Areas ~~Ordinance~~). A request for a variance is applied for and processed in conjunction with a project permit. When a variance is requested, the

project permit shall be reviewed under the process type required for the permit or action with the highest process type number per WCC 22.05.020 Table 1.

~~(2)~~(2) Variances may be authorized in specific cases that will not be contrary to the public interest, and where, due to special conditions, ~~literal enforcement compliance with~~ the provisions of those codes would result in unnecessary hardship. Generally, variances shall only be considered for dimensional standards, unless otherwise specified in those codes. Under no circumstances shall a variance be granted that allows a use not permissible or otherwise prohibited in the zoning district in which the subject property is located.

~~(2)~~(3) There are two types of non-shoreline variances: minor and major variances.

(a) Minor variances include those that are unlikely to have impacts on surrounding properties or people or need to be processed more rapidly to meet federal time frames. These shall be limited to variances for:

i. A reduction of up to ~~10% percent~~ of a front yard setback;

ii. Minor variances for reduction of critical area buffers pursuant to WCC 16.16.273;

~~iii. The following personal wireless service facilities: Small wireless facilities; provided, that a~~
~~variance shall not be granted that would alter the dimensional, bulk, numerical, or other~~
~~criteria in the definition of small wireless facilities in WCC 20.13.~~
iii. A 25% to 50% reduction of critical area buffers pursuant to 16.16.273 (Variances).

(b) Major variances include all other variances.

~~(3)~~(4) The appropriate decision maker, as specified in WCC 22.05.020 ~~(Table 1 Project permit processing table)~~, shall have the authority to grant variances when the conditions set forth in subsection (45) of this section have been found to exist. In such cases, a variance may be granted so that the spirit of the ~~e~~County's land use codes shall be observed, public safety and welfare secured, and substantial justice done.

~~(4)~~(5) Before any variance may be granted, it shall be shown that the following circumstances are found to apply:

(a) That any variance granted shall not constitute a grant of special privilege, not be based upon reasons of hardship caused by previous actions of the property owner, nor be granted for ~~pecuniary-financial~~ reasons alone;

(b) Because of special circumstances applicable to the subject property, including size, shape, topography, location, or surrounding, the strict application of WCC Title 20 (Zoning) or Chapter 16.16 WCC (Critical Areas Ordinance) is found to cause a hardship and deprive the subject property of a use or improvement otherwise allowed in its zoning district. Aesthetic considerations or design preferences without reference to restrictions based upon the physical characteristics of the property do not constitute sufficient hardship under this section;

(c) The granting of the variance will not be materially detrimental to the public welfare, or injurious to the property or improvements in the vicinity and zone in which the subject property is situated.

22.05.026 Conditional use permits.

- (1) Application. Conditional use permit applications shall be processed per the provisions of this chapter.
- (2) Conditional use permits shall be nontransferable unless said transfer is approved by the ~~h~~Hearing ~~e~~Examiner.
- (3) Approval Criteria. Before approving an application, the ~~director or h~~Hearing ~~e~~Examiner shall ensure that any specific standards of the zoning district defining the use are fulfilled, and shall find adequate evidence showing that the proposed use at the proposed location:
 - (a) Will be harmonious and in accordance with the general and specific objectives of Whatcom County's Comprehensive Plan, zoning regulations, and any other applicable regulations.
 - (b) Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area.
 - (c) If located in a rural area (as designated in the Comprehensive Plan), will be consistent with rural land use policies as designated in the rural lands element of the Comprehensive Plan.
 - (d) Will not be hazardous or disturbing to existing or future neighboring uses.
 - (e) Will be serviced adequately by necessary public facilities such as highways, streets, police and fire protection, drainage structures, refuse disposal, water, sewers, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.
 - (f) Will not create excessive additional requirements at public cost for public facilities and services, and will not be detrimental to the economic welfare of the community.
 - (g) Will not involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, property, or the general welfare by reasons of excessive production of traffic, noise, smoke, fumes, glare or odors.
 - (h) Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public streets.
 - (i) Will not result in the destruction, loss or damage of any natural, scenic, or historic feature of major importance.
- (4) Approval Criteria for Expansion of Fossil Fuel Refineries Pursuant to WCC 20.68.153 and Expansion of Fossil Fuel Transshipment Facilities Pursuant to WCC 20.68.154. Before approving an application, the ~~h~~Hearing ~~e~~Examiner shall ensure that any specific standards of the zoning district defining the use are fulfilled, and shall find adequate evidence showing that:
 - (a) The conditional use permit approval criteria listed under subsection (3) of this section are met;
 - (b) Within shorelines, if applicable, ~~e~~County approval shall be contingent upon approval of a shoreline permit;
 - (c) The applicant has documented to the ~~e~~County decision maker (as applicable):
 - i. All of the anticipated types and volumes of substances to be processed, stored, or transferred in bulk with the proposed expansion;
 - ii. Changes in the maximum transshipment capacity or the maximum atmospheric crude distillation capacity occurring as a result of the proposed expansion, as applicable; and

- iii. The mode of shipment vessels to be loaded or unloaded with the proposed equipment and/or as a result of the proposed expansion.

The permit shall be limited exclusively to those types and volumes of materials or products as documented and approved.

- (d) Insurance requirements meet the provisions of WCC 22.05.125.
- (e) Mitigation of transportation impacts consistent with Chapter 20.78 WCC, Transportation Concurrency Management, and Chapter 16.24 WCC, Commute Trip Reduction.
- (f) Mitigation of impacts to other services including fire and emergency response capabilities, water supply and fire flow, to address risks created by expansions.
- (g) Plans for stormwater and wastewater releases have been approved.
- (h) Prior to commencement of any site preparation or construction activities, all necessary state leases shall be acquired for any piers or aquatic lands improvements, and it shall be demonstrated to the zoning administrator that the project applicant has met any federal or state permit consultation requirements, including tribal treaty rights or the provisions of the Magnuson Amendment through state and federal permitting decisions.
- (i) The eCounty decision maker may approve a conditional use permit with a condition to obtain relevant leases and complete any necessary federal and state permitting requirements, and may restrict the conditional use permittee from undertaking site preparation or construction activities until it has fulfilled that condition.
- (j) The permittee must inform the eCounty permitting authorities of a change in the aforementioned disclosures so that the department can document current capacity levels to ensure that the cumulative thresholds under WCC 20.68.153 or 20.68.154 (as applicable) have not been exceeded.
- (k) The eCounty decision maker shall include, in any approval of an application for an expansion, as per WCC 20.68.153 or 20.68.154, a condition that the permitted equipment shall only be used in the manner described by the project proponent in the application and approved in the permit. The application shall describe the intended use, including the type of fuel to be stored and, if located at a fossil fuel refinery or renewable fuel refinery, whether the equipment will or will not be used for transshipment.

- (5) Revisions. The hHearing eExaminer may administratively approve revisions to conditional use permits; provided, that the proposed changes are within the scope and intent of the original permit. “Within the scope and intent of the original permit” shall mean the following:
 - (a) Lot coverage and height may be increased a maximum of 10 percent from the provisions of the original permit; provided, that:
 - i. Revisions involving new structures not shown on the original site plan shall require a new permit;
 - ii. Any revisions shall not exceed height, lot coverage, setback, or any other requirements of the regulations for the area in which the project is located; and
 - iii. Any revisions shall be reviewed for consistency with the Comprehensive Plan;

- (b) Landscaping may be added to a project without necessitating an application for a new permit; provided, that the landscaping is consistent with conditions (if any) attached to the original permit and is consistent with the regulations for the area in which the project is located;
- (c) The use authorized pursuant to the original permit is not changed;
- (d) No additional over-water construction will be involved for shoreline conditional use permits;
- (e) No substantial increase in adverse environmental impact will be caused by the project revision.

22.05.028 Administrative approval uses.

- (1) Administrative approval applications shall be processed per the provisions of this chapter.
- (2) The ~~d~~Director ~~of planning and development services~~ is authorized to approve, approve with conditions, or deny all administrative approval use applications.
- (3) Approval Criteria. Decisions for all administrative approval use permits shall be based upon compliance with:
 - (a) The criteria established for the proposed use in the appropriate zone district;
 - (b) The Comprehensive Plan policies governing the associated land use designation;
 - (c) In rural areas, consideration will be given to the cumulative impacts of permitted uses in relation to the governing Comprehensive Plan policies and zoning district; and
 - (d) The criteria of WCC 22.05.026(3) (conditional use permits, approval criteria).
 - (e) Additionally, decisions for administrative approval use permits for adult businesses shall be based on the criteria in subsection (4) of this section.
- (4) Additional Approval Criteria for Adult Businesses. Prior to granting administrative approval for an adult business, the ~~d~~irector shall find that the proposed use at the proposed location satisfies or will satisfy all the following criteria:
 - (a) The adult business will be consistent with WCC 20.66.131 (Light Impact Industrial District, Administrative approval uses).
 - (b) The adult business shall be closed from 2:00 a.m. to 10:00 a.m. if it contains:
 - i. An adult eating or drinking establishment; or
 - ii. An adult theater; or
 - iii. Another adult commercial establishment; or
 - iv. One or more viewing booths.
 - (c) If the adult business includes one or more viewing booths, the interior of the adult business will incorporate all of the following measures:
 - i. Each viewing booth shall have at least a three-foot-wide opening where a customer enters and exits the booth that is without doors, physical barriers, or visual barriers; and
 - ii. Each viewing booth shall have at least one 100-watt light bulb that is properly working and turned on when business is open. The light bulb shall not be covered or otherwise shielded except with a commercially available lighting fixture. A minimum of one 12-inch by 12-inch durable metal sign shall be located at the entrance to each viewing booth area stating that lights shall remain on; and
 - iii. Aisles or hallways adjacent to viewing booths shall be a minimum of five feet wide; and
 - iv. There shall be no holes or openings in common walls between viewing booths.

- (d) Additionally, for adult businesses containing one or more viewing booths, a condition of approval shall allow an unannounced inspection by Whatcom County every six months during business hours to ensure that measures in subsections (4)(c)(i) through (4)(c)(iv) of this section are being implemented on an ongoing basis.
- (5) Revisions. The ~~d~~Director may approve revisions to administrative approval use permits; provided, that the proposed changes are within the scope and intent of the original permit. “Within the scope and intent of the original permit” shall mean the following:
 - (a) Lot coverage and height may be increased a maximum of 10 percent from the provisions of the original permit; provided, that:
 - i. Revisions involving new structures not shown on the original site plan shall require a new permit; and
 - ii. Any revisions shall not exceed height, lot coverage, setback, or any other requirements of the regulations for the area in which the project is located; and
 - iii. Any revisions shall be reviewed for consistency with the Comprehensive Plan;
 - (b) Landscaping may be added to a project without necessitating an application for a new permit; provided, that the landscaping is consistent with conditions (if any) attached to the original permit and is consistent with the regulations for the area in which the project is located;
 - (c) The use authorized pursuant to the original permit is not changed;
 - (d) No additional over-water construction will be involved for shoreline conditional use permits;
 - (e) No substantial increase in adverse environmental impact will be caused by the project revision.

22.05.029 Development Agreements.

- (1) **Purpose.** The purpose of this section is to set forth the decision-making and appeal procedures for development agreement applications. In adopting these provisions, the County acknowledges the benefits of providing certainty regarding applicable development standards, uses, and/or mitigation for major projects or long-term, phased proposals.
- (2) **Applicability.** This section applies to development agreement applications made pursuant to RCW 36.70B.170 - 36.70B.210 and this chapter. These provisions do not apply to or affect the validity of any contract rezone, concomitant agreement, annexation agreement, or other agreement in existence on or before the effective date of this chapter, or adopted under separate authority, even though such agreements may also relate to development standards, mitigation, and other regulatory requirements.
- (3) **Discretion to Enter Development Agreement.** A development agreement may or may not be entered at the sole discretion of the County Council. Discretion rests with the County in all cases, including when a development agreement is required per WCC.
- (4) **Who May Enter.** The property owner and the County shall be parties to a development agreement; provided, that if a proposed development is within an adopted municipal UGA, the applicable town or city may also be a party to the agreement. The following may be considered for inclusion as additional parties in a development agreement: contract purchasers, lenders, third-party beneficiaries and utility service providers.

- (5) **Content of Development Agreements.** A development agreement shall set forth the development standards and other conditions that shall apply to and govern the development, use, and mitigation of the property subject to the agreement. They shall also:
- (a) Specify a termination date upon which the agreement expires;
 - (b) Establish a vesting period for applicable standards; and,
 - (c) Reserve authority to impose new or different regulations to the extent required by a serious threat to public health and safety.
- (6) **When Development Agreements May Be Approved.** A development agreement may be entered into prior to, concurrent with, or following approval of project permits for development of the property.
- (7) **Consistency with Whatcom County Code.** The development standards and conditions set forth in a development agreement shall be consistent with the applicable development regulations set forth in the Whatcom County Code.
- (8) **Standards to be Addressed.** A development agreement shall include one or more of the following types of development controls and conditions:
- (a) Project elements such as permitted uses, residential densities, and nonresidential densities, intensities and/or building sizes;
 - (b) Impact fees, impact fee reimbursement provisions, other financial contributions by the property owner and dedications;
 - (c) Mitigation measures pursuant to environmental review;
 - (d) Design standards such as maximum heights, setbacks, drainage and water quality requirements and landscaping;
 - (e) Affordable housing;
 - (f) Parks and open space ;
 - (g) Phasing;
 - (h) Other appropriate development requirements.
- (9) **Procedures.**
- (a) A development agreement shall be initiated by a written request from the property owner to Planning and Development Services.
 - (b) If the Director determines that a development agreement should be considered by the County Council, the property owner shall be so informed.
 - (c) Development agreements shall be reviewed in the manner and following the procedures for Type IV processes established in WCC 22.05.020. The Hearing Examiner’s recommendation shall include a proposed resolution or ordinance, as appropriate, for Council consideration that would adopt the Hearing Examiner’s recommendation as a final decision.
 - (d) When a development agreement is being considered prior to project permit approvals, the property owner shall provide Planning and Development Services with the same information that would be required for a complete application for such project permits in order for the County to determine the development standards and conditions to be included in the development agreement.

(e) When a development agreement is being considered following approval of project permits, the development standards and other conditions set forth in such project permits shall be used in the development agreement without modification.

(f) The County Council has final approval or denial authority for development agreements.

(10) **Decision criteria.** The County Council may adopt a development agreement upon passage of a resolution or ordinance, as appropriate, with findings that:

(a) The proposed agreement is compatible with the goals and policies of the comprehensive plan;

(b) The proposed agreement is consistent with applicable development regulations;

(c) The proposed agreement provides for adequate mitigation of adverse environmental impacts; provided that if the development is not defined at a project level, the agreement shall provide a process for evaluating and appropriately mitigating such impacts in the future; and

(d) The proposed agreement reserves authority to impose new or different regulations to the extent required by a serious threat to public health and safety.

(11) **Recording required.** A development agreement shall be recorded with the County Auditor and shall be binding during its term on the parties and their successors, including any city that assumes jurisdiction through incorporation or annexation of the area covered by the development agreement.

(12) **Modification of development agreement.** Modification of an approved development agreement shall require processing as a new development agreement, except that a development agreement may provide a range of modifications that may be approved by the department at the time of initial development agreement approval.

(13) **Effect of development agreement.**

(a) A development agreement is binding on the parties and their successors, including a city that assumes jurisdiction through incorporation or annexation of the area covering the property subject to the development agreement.

(b) A development agreement shall be enforceable during its term by a party to the agreement.

(c) A development agreement shall govern during the term of the agreement all or that part of the development specified in the agreement and may not be subject to an amendment to a zoning ordinance or development standard or regulation or a new zoning ordinance or development standard or regulation adopted after the effective date of the agreement.

(d) Permits issued by the County after the execution of the development agreement shall be consistent with the agreement.

(14) **Appeal of development agreement.** A development agreement shall be subject to appeal in Superior Court in accordance with the provisions of the Land Use Petition Act, Chapter 36.70C RCW.

22.05.030 Consolidated permit review.

Except for building permits, the eCounty shall integrate and consolidate the review and decision on two or more project permits or actions subject to this chapter that relate to the proposed project action unless the applicant requests otherwise. Consolidated Type I, II, III and IV permits or actions shall be reviewed under the process type required for the permit or action with the highest process type number per WCC 22.05.020. Level IV is considered the highest and Level I is considered the lowest process type.

22.05.032-126 Supplemental procedures for fossil fuel refinery and fossil fuel transshipment facility permitting.

- (1) Upon request of the eCounty, fossil fuel refineries or fossil fuel transshipment facilities shall fill out a supplemental checklist for the purpose of determining whether a project qualifies as a permitted use or requires a conditional use permit as specified in WCC 20.68.153 or 20.68.154. The checklist shall contain supplemental information to include:
 - (a) Impact on maximum atmospheric crude distillation capacity (MACDC), maximum transshipment capacity, and fossil fuel unit train shipment frequency from the proposed activity;
 - (b) Confirmation of the acceptance of potential permit conditions as outlined in WCC 20.68.068(23);
 - (c) Applicant name, property owner information, and parcel information as appropriate; and
 - (d) An attestation by the applicant regarding the accuracy of the information contained therein, signed by the applicant and certified by a notary public.
- (2) Confidential Business Information.
 - (a) For the purpose of checklists, permit applications and all other materials submitted by fossil fuel refineries or fossil fuel transshipment facilities for activities in the Cherry Point Heavy Impact Industrial District, the following shall apply:
 - i. The applicant shall clearly identify information the applicant considers to be confidential business information, not subject to disclosure under Chapter 42.56 RCW (Public Records Act) and/or WCC 1.32.090. If such information is contained in submittal documents, the applicant shall submit two copies of materials for eCounty use as follows:
 - (A) A copy with confidential business information clearly identified, with a watermark indicating the document contains such information; and
 - (B) A copy with confidential business information redacted, and a watermark added indicating that the document does not contain such information and is suitable for public disclosure.
 - ii. Confidential business information may include:
 - (A) Processing equipment technical specifications on internals, sidestream/pumparounds, design specifications, and process controls;
 - (B) Process unit design, instrumentation and controls;
 - (C) Feedstock, product, or process unit pump capacity and configuration; and
 - (D) Contractual agreements and all terms contained therein.
 - iii. The information listed above is not meant to be all-inclusive. Other information related to the applicant's processing activities, feedstock and product purchase, and/or sale and transportation methods and costs may be confidential business information and, if so, shall be marked as such when submitted.
 - iv. Calculation and permit material submittals may contain, but are not required to contain any of the above information.
 - v. Where no increase to MACDC, maximum transshipment capacity, or unit train frequency is proposed, submittal of confidential business information specifically related to the

criteria of WCC 20.68.153 and 20.68.154 shall not be required to be submitted with the permit application materials.

- (3) Where calculations are to be submitted for maximum transshipment capacity of maximum atmospheric crude distillation capacity, the applicant shall provide calculations performed and certified by a professional engineer licensed in the state of Washington, clearly indicating the impact on MACDC and transshipment capacity. Confidential business information shall be clearly identified as required by subsection (2)(a)(i) of this section.
- (4) If the eCounty receives a public records request for records containing information the applicant has clearly indicated to be confidential business information pursuant to subsection (2)(a)(i) of this section, the eCounty will notify the applicant of the request and provide the applicant with a reasonable period of time of at least 15 days to file for an injunction under RCW 42.56.540 to prevent the disclosure of such information. If the applicant does not file for an injunction within the period of time set by the eCounty, the eCounty will disclose the records containing the information that the applicant has designated as confidential business information pursuant to subsection (2)(a)(i) of this section.

22.05.034 Modified Regulations for Personal Wireless Service Facilities.

This section modifies certain above regulations, as indicated.

(1) WCC 22.05.024 (Variances (Non-Shoreline)) §(2)(a) is modified to include the following as a minor variance:

iv. The following personal wireless service facilities: Small wireless facilities; provided, that a variance shall not be granted that would alter the dimensional, bulk, numerical, or other criteria in the definition of small wireless facilities in WCC 20.13.

(2) WCC 22.05.050 (Application and determination of completeness), §(1) is modified to read:

Project permit applications for personal wireless service facilities be submitted using current forms provided by the review authority, as listed below. The submittal shall include all applicable fees per Chapter 22.25 WCC, all materials required by the department’s administrative manual (unless waived pursuant to WCC 22.05.050(2)), and all items identified in the preapplication notice of site-specific submittal requirements. If a permit is denied, no reapplication for the same or essentially similar development may be made within one year of the date of denial.

(a) Eligible Facility Requests. The County shall prepare and make publicly available an “Eligible Facilities Request Application” form used to determine whether a proposal qualifies as an eligible facilities request. An applicant’s submittal of a completed “Eligible Facilities Request Application” is the first procedural step in the County’s application process. The County may require the applicant to provide documentation or information only to the extent reasonably related to determining whether the request meets the definition and requirements for an eligible facilities request. The County may not require an applicant to submit any other documentation, including but not limited to documentation intended to illustrate the need for such wireless facilities or to justify the business decision to modify such wireless facilities. The applicant shall submit applicable fees per Chapter 22.25 WCC.

Commented [CES1]: Note: Shown as new (underlined) as this is a new (consolidated) section being created. The actual rules contained within have not been modified, just moved from other sections so as to consolidate all wireless processing rules into one place.

- (b) The County shall prepare and make publicly available a “Small Wireless Facility Application” form used to determine whether a proposal qualifies as a small wireless facility. An applicant’s submittal of a completed “Small Wireless Facility Application” is the first procedural step in the County’s application process. The applicant shall submit applicable fees per Chapter 22.25 WCC.
- (c) The County shall prepare and make publicly available a “Macro Wireless Facility Application” form for projects that do not qualify as an exempt activity pursuant to WCC 20.13.030, eligible facilities request, or small wireless facility. An applicant’s submittal of a completed “Macro Wireless Facility Application” is the first procedural step in the County’s application process. The applicant shall submit applicable fees per Chapter 22.25 WCC.
- (2) WCC 22.05.050 (Application and determination of completeness), §(4) is modified to read: An application for personal wireless service facilities is complete if it meets the procedural submission requirements as outlined on the application. The County shall provide to the applicant a written determination which states either that the application is complete or the application is incomplete within:
- (a) 10 calendar days of receiving a wireless eligible facilities request application;
 - (b) 10 calendar days of receiving a small wireless facility application;
 - (c) 30 calendar days of receiving a macro wireless facility application.
- To the extent known by the County, other agencies of local, state, or federal government that may have jurisdiction shall be identified on the determination.
- (3) WCC 22.05.050 (Application and determination of completeness), §(5) is modified to read: A project permit application for personal wireless service facilities is complete when the application required pursuant to subsection (1) of this section is entirely filled out with the required information, as set forth in the department’s administrative manual, and submitted to the County. A determination of completeness shall not preclude the County from requiring additional information or studies at any time prior to permit approval. A project permit application for personal wireless service facilities is subject to the tolling provisions of WCC 22.05.130 (tolling refers to the time excluded from the permit review time frame).
- (4) WCC 22.05.050 (Application and determination of completeness), §(6)(c) is modified to read: Upon receipt of the necessary information, the County shall have 10 calendar days to make a determination and notify the applicant whether the application is complete or what additional information is necessary.
- (5) WCC 22.05.070 (Notice of application), §(3) is modified to also include:
- i. Notices relating to personal wireless service facilities may state the federal preemption of local regulation of radio frequency emissions.
- (6) WCC 22.05.070 (Notice of application), §(4)(b)(i) is modified to read: For sites within urban growth areas: Application notice for personal wireless service facilities shall be sent to all property owners within 1,000 feet of the external boundaries of the subject property as shown by the records of the County Assessor.
- (7) WCC 22.05.130 (Permit review time periods) is modified to read:

(1) For personal wireless service facilities permits the County shall issue a notice of final decision to the applicant, the Whatcom County assessor, and any person who requested notice or submitted substantive comments on the application as follows:

(a) Eligible facility requests for personal wireless service facilities shall be subject to the following permit review time frames, tolling, and deemed granted provisions:

- i. Applications for an eligible facilities request shall be approved within 60 days of application submittal, unless it is determined that the proposal does not qualify as an eligible facilities request under WCC Chapter 20.13.
- ii. If the County determines that the applicant's request does not qualify as an eligible facilities request it shall deny the application within 60 days of the date of application submittal. The denial shall be in writing and supported by substantial evidence contained in the written record. If an eligible facilities request application is denied, a new application may be submitted under the appropriate personal wireless service facilities provisions of Chapter 20.13 WCC.
- iii. The 60-day review period begins to run when the application is filed and may be tolled only by mutual agreement by the County and the applicant or in cases where the County determines that the application is incomplete. The timeframe for review is not tolled by a moratorium on the review of applications.
- iv. To toll the timeframe for incompleteness, the County must provide written notice to the applicant within 30 days of receipt of the application, clearly and specifically delineating all missing documents or information required in the application.
- v. The timeframe for review begins running again when the applicant makes a supplemental submission in response to the County's notice of incompleteness.
- vi. Following a supplemental submission, the County will notify the applicant within 10 days if the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in this section. Second or subsequent notice of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness.
- vii. In the event the County fails to approve or deny an eligible facilities request within the timeframe for review (accounting for any tolling), the request shall be deemed granted if required by federal law or federal regulation. The deemed grant does not become effective until the applicant notifies the County in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted. The applicant shall provide a citation to the federal law or federal regulation that requires the deemed granted status.

(b) Small wireless facilities shall be subject to the following permit review time frames and tolling periods (collectively known as shot clock periods):

- i. Review of an application to collocate a small wireless facility using an existing structure: 60 days.

- ii. Review of an application to deploy a small wireless facility using a new structure: 90 days.
 - iii. Unless a written agreement between the applicant and the County provides otherwise, the tolling period for an application is as set forth below.
 - iv. For an initial application for small wireless facilities, if the County notifies the applicant on or before the tenth day after submission that the application is materially incomplete, and clearly and specifically identifies the missing documents or information and the specific rule or regulation creating the obligation to submit such documents or information, the shot clock date calculation shall restart at zero on the date on which the applicant submits all the documents and information identified by the County to render the application complete.
 - v. For resubmitted applications following a notice of deficiency, the tolling period shall be the number of days from the day after the date when the County notifies the applicant in writing that the applicant’s supplemental submission was not sufficient to render the application complete and clearly and specifically identifies the missing documents or information that need to be submitted based on the County’s original request until the date when the applicant submits all the documents and information identified by the County to render the application complete. The notice pursuant to this section must be issued on or before the tenth day after the date when the applicant makes a supplemental submission in response to the County’s written notification.
 - vi. The shot clock date for an application is determined by counting forward, beginning on the day after the date when the application was submitted, by the number of calendar days of the shot clock period identified in this subsection (1)(e); provided, that if the date calculated in this manner is a federal, state, or local holiday, the shot clock date is the next business day after such date. The term “business day” means any day, except Saturday or Sunday, that is not a legal holiday.
- (c) Macro wireless facilities shall be subject to the following permit review time frames and tolling periods (collectively known as shot clock periods):
- i. Review of an application to collocate a macro wireless facility using an existing structure: 90 days.
 - ii. Review of an application to deploy a macro wireless facility using a new structure: 150 days.
 - iii. Unless a written agreement between the applicant and the County provides otherwise, the tolling period for an application is as set forth below.
 - iv. For an initial application for macro wireless facilities, the tolling period shall be the number of days from: The day after the date when the County notifies the applicant in writing that the application is materially incomplete and clearly and specifically identifies the missing documents or information that the applicant must submit to render the application complete and the specific rule or regulation creating this obligation until the date when the applicant submits all the documents and

information identified by the County to render the application complete. The notice pursuant to this section must be issued on or before the thirtieth day after the date when the application was submitted to toll the review time frame.

- v. For resubmitted applications following a notice of deficiency, the tolling period shall be the number of days from the day after the date when the County notifies the applicant in writing that the applicant’s supplemental submission was not sufficient to render the application complete and clearly and specifically identifies the missing documents or information that need to be submitted based on the County’s original request until the date when the applicant submits all the documents and information identified by the County to render the application complete. The notice pursuant to this section must be issued on or before the tenth day after the date when the applicant makes a supplemental submission in response to the County’s written notification.
- vi. The shot clock date for an application is determined by counting forward, beginning on the day after the date when the application was submitted, by the number of calendar days of the shot clock period identified in this subsection (1)(f); provided, that if the date calculated in this manner is a federal, state, or local holiday, the shot clock date is the next business day after such date. The term “business day” means any day, except Saturday or Sunday, that is not a legal holiday.

(8) WCC 22.05.160 (Appeals), §(1) is modified to read:

For personal wireless service facilities, any person with standing may appeal any order, final permit decision, or final administrative determination made by the Director in the administration or enforcement of any chapter to a court of competent jurisdiction.

22.05.040 Preapplication conference.

The purpose of a preapplication conference is to assist applicants in preparing development applications for submittal to the eCounty by identifying applicable regulations and procedures. It is not intended to provide a staff recommendation on future permit decisions. Preapplication review does not constitute acceptance of an application by the eCounty nor does it vest an application, unless otherwise indicated in Whatcom County Code.

- (1) A preapplication conference is required as indicated in WCC 22.05.020, unless the ~~d~~Director ~~or designee~~ grants a written waiver. For other ~~permits~~applications, the applicant may request a preapplication conference. An applicant may request any number of preapplication conferences.
- (2) The eCounty shall charge the applicant a fee for ~~a~~each preapplication conference per the unified fee schedule. If the eCounty makes a determination of completeness on a project permit submitted within one year of the notice of site-specific submittal requirements per subsection (6) of this section, ~~the preapplication 50% of the planning fee for one of the preapplication conferences~~ shall be applied to the application cost.
- (3) It is the responsibility of the applicant to initiate a preapplication conference through a written application. The application shall, at a minimum, include all items identified on the preapplication

form and the department’s administrative manual. The applicant may provide additional information to facilitate more detailed review.

- (4) A preapplication conference shall be scheduled as soon as possible and held no later than 30 calendar days from the date of the applicant’s request, unless agreed upon by the applicant and the eCounty.
- (5) The eCounty shall invite the appropriate city to the preapplication meeting if the project is located within that city’s urban growth area or which contemplates the use of any city utilities. Notice shall also be given to appropriate public agencies and public utilities, if within 500 feet of the area submitted in the application.
- (6) The eCounty should provide the applicant with notice of site-specific submittal requirements for application no later than 14 calendar days from the date of the conference.
- (7) A new preapplication conference shall be required if an associated project permit application is not filed with the eCounty within one year of the notice of site-specific submittal requirements per subsection (6) of this section or the application is substantially altered, unless waived per WCC 22.05.040(1).

22.05.050 Application and determination of completeness.

- ~~(1) Project permit applications shall be submitted using current forms provided by the review authority. The submittal shall include: all applicable fees per Chapter 22.25 WCC, all materials required by the department’s administrative manual (unless waived pursuant to subsection (2)), and all items identified in the preapplication notice of site-specific submittal requirements, except for personal wireless service facilities which shall be as follows:~~
- ~~(2) Eligible Facility Requests. The county shall prepare and make publicly available an “Eligible Facilities Request Application” form used to determine whether a proposal qualifies as an eligible facilities request. An applicant’s submittal of a completed “Eligible Facilities Request Application” is the first procedural step in the county’s application process. The county may require the applicant to provide documentation or information only to the extent reasonably related to determining whether the request meets the definition and requirements for an eligible facilities request. The county may not require an applicant to submit any other documentation, including but not limited to documentation intended to illustrate the need for such wireless facilities or to justify the business decision to modify such wireless facilities. The applicant shall submit applicable fees per Chapter 22.25 WCC.~~
- ~~(3) The county shall prepare and make publicly available a “Small Wireless Facility Application” form used to determine whether a proposal qualifies as a small wireless facility. An applicant’s submittal of a completed “Small Wireless Facility Application” is the first procedural step in the county’s application process. The applicant shall submit applicable fees per Chapter 22.25 WCC.~~
- ~~(4) The county shall prepare and make publicly available a “Macro Wireless Facility Application” form for projects that do not qualify as an exempt activity pursuant to WCC 20.13.030, eligible facilities request, or small wireless facility. An applicant’s submittal of a completed “Macro Wireless Facility Application” is the first procedural step in the county’s application process. The applicant shall submit applicable fees per Chapter 22.25 WCC.~~

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(1) Project permit applications shall be submitted using current forms provided by the review authority. The submittal shall include: all applicable fees per Chapter 22.25 WCC, all materials required by the department's administrative manual (unless waived pursuant to subsection (2)), and all items identified in the preapplication notice of site-specific submittal requirements. ~~If a permit is denied, no reapplication for the same or essentially similar development may be made until within one year from the date of denial.~~

(2) The Director may vary or waive the requirements provided in the department's administrative manual on a case-by-case basis, though may also require additional specific information depending on the nature of the proposal and the presence of sensitive ecological features or issues related to compliance with other eCounty requirements.

~~(5)~~(3) Upon submittal by the applicant, the eCounty will accept the application and note the date of receipt. Receipt of an application does not constitute approval of the project proposal.

~~(6)~~(4) An application is complete if it meets the procedural submission requirements as outlined on the application ~~and the department's administrative manual, includes items identified through the preapplication conference, and contains sufficient information to process the application even if additional information may be required.~~ The eCounty shall provide to the applicant a written determination which states either that the application is complete or the application is incomplete within ~~28 calendar days of receiving an application.~~ ~~To the extent known by the eCounty, other agencies of local, state, or federal government that may have jurisdiction shall be identified on the determination.~~

~~(a) Ten calendar days of receiving a wireless eligible facilities request application;~~

~~(b) Ten calendar days of receiving a small wireless facility application;~~

~~(c) Thirty calendar days of receiving a macro wireless facility application; and~~

~~(d) Fourteen calendar days of receiving all other applications.~~

~~To the extent known by the county, other agencies of local, state, or federal government that may have jurisdiction shall be identified on the determination.~~

~~(7)~~(5) A project permit application (other than for personal wireless service facilities) is complete when it meets the submittal requirements of the department's administrative manual, includes items identified through the preapplication conference process and contains sufficient information to process the application even if additional information will be required. ~~A project permit application for personal wireless service facilities is complete when the application required pursuant to subsection (1) of this section is entirely filled out with the required information, as set forth in the department's administrative manual, and submitted to the county.~~ A determination of completeness shall not preclude the eCounty from requiring additional information or studies at any time prior to permit approval. A project permit application ~~(other than for personal wireless service facilities)~~ shall be deemed complete under this section if the eCounty does not issue a written determination to the applicant that the application is incomplete by the end of the ~~fourteenth~~ 29th calendar day from the date of receipt. ~~A project permit application for personal wireless service facilities is subject to the tolling provisions of WCC 22.05.130 (tolling refers to the time excluded from the permit review time frame).~~

~~(8)~~(6) If the application is determined to be incomplete, the following shall take place:

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- (a) The eCounty will notify the applicant that the application is incomplete and indicate what is necessary to make the application complete.
- (b) The applicant shall have 960 calendar days from the date that the notification was issued to submit the necessary information to the eCounty. If the applicant does not submit the necessary information to the eCounty in writing within the 960-day period, the application shall be rejected. ~~The dDirector or designee may extend this period for an additional 960 calendar days upon written request by the applicant.~~
- (c) Upon receipt of the necessary information, the eCounty shall have 14 calendar days ~~(10 days for personal wireless service facilities)~~ to make a determination and notify the applicant whether the application is complete ~~or what additional information is necessary or rejected.~~

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~~(9)(7)~~ A determination of an incomplete application is an appealable final administrative determination, subject to WCC 22.05.160(1).

22.05.060 Vesting.

- (1) **Complete Applications.** For a project permit application the department has determined to be complete per WCC 22.05.050(4), the application shall be considered under the zoning or other land use control ordinances in effect on the date the application was submitted to the department.
- (2) **Incomplete Applications.** For a project permit application the department has determined to be incomplete per WCC 22.05.050(5), the application shall be considered under the zoning or other land use control ordinances in effect on the date the department determines the application to be complete based on the necessary information required by the department.

~~(3) Applications Subject to Preapplication Conference. Notwithstanding the provisions of subsections (1) and (2) of this section, for a project permit application that is:~~
~~(a) subject to a preapplication conference per WCC 22.05.020 and 22.05.040,;~~
~~(b) submitted no more than 28 calendar days from the date the department issued its notice of site specific submittal requirements,;~~ ~~and;~~
~~—determined complete by the department,~~
~~the application shall be considered under the zoning or other land use control ordinances/regulations in effect on the date the preapplication conference request was submitted to the department.~~

~~(4)(3) Continuation of Vesting.~~ Building or land ~~disturbance-fill and grade~~ permit applications that are required to ~~complete-obtain one of the following project permits or approvals a valid (i.e., not expired) project permit approval for project permits or variances identified in the following list (subsections (4)(a) through (4)(mj) of this section)~~ shall vest to the zoning and land use ~~control ordinances/regulations~~ in effect at the time the project permit application ~~identified below~~ was determined ~~to be~~ complete:

- (a) Administrative use;
- (b) ~~Commercial s~~Site plan review;
- (c) Conditional use;
- ~~(d) Critical areas variance;~~
- ~~(e)(d)~~ Major project permit;
- ~~(f) Natural resource review;~~

- ~~(e)~~(e) Planned unit development;
- ~~(h)~~(f) Reasonable use **exceptions (Type II and III)**;
- ~~(j)~~(g) Shoreline conditional use permit;
- ~~(k)~~(h) Shoreline exemption;
- (i) Shoreline substantial development permit;
- ~~(k)~~(i) Variances
- ~~(l)~~ Shoreline variance;
- ~~(m)~~ Zoning variance.

~~(5)~~(4) **Vesting of Building Permit Applications within Recorded Long and Short Subdivisions and**

Binding Site Plans. Building permit applications, including associated land disturbance permits, shall be governed by conditions of approval, statutes, and ~~ordinances-regulations~~ in effect at the time of final approval of the plat, short plat, or binding site plan pursuant to RCW 58.17.170. Vesting duration for those building permit applications shall be governed by the time limits established for long subdivisions in RCW 58.17.170, unless the eCounty finds that a change in conditions creates a serious threat to the public health or safety.

~~(6)~~(5) **Vesting of Building and Fire Code Requirements.** Building and fire code provisions adopted per WCC Title 15 vest at the time a building permit application is determined to be complete.

~~(7)~~(6) **Duration.** Vesting status established through subsections (1) through (5) of this section runs with the application and expires upon denial of the application by the eCounty, withdrawal of the application by the applicant, rejection of the application per WCC 22.05.050(5), expiration of the application per WCC 22.05.130(1)(a)(i), ~~or~~ expiration of the approved permit per WCC 22.05.140, or revocation of the permit per WCC 22.05.150.

22.05.070 Notice of application.

- (1) For permit applications of Type II, III, and IV ~~applications-processes~~ per WCC 22.05.020, the eCounty shall issue a notice of application within 14 calendar days of a determination of completeness. The date of notice shall be the date of ~~mailing~~publication.
- (2) If the eCounty has made a State Environmental Policy Act (SEPA) threshold determination of significance concurrently with the notice of application, ~~the county~~it shall combine the determination of significance and scoping notice with the notice of application.
- (3) Notice shall include:
 - (a) The date of application, the date of determination of completeness for the application, and the date of the notice of application;
 - (b) A description of the proposed project action and a list of the project permits or approvals requested ~~included~~ in the application, and, if applicable, a list of any studies requested by the eCounty;
 - (c) The identification of other permits or approvals not included in the application to the extent known by the eCounty;
 - (d) The identification of environmental reviews conducted, including notice of existing environmental documents that evaluate the proposed project (including but not limited to reports, delineations, assessments and/or mitigation plans associated with critical area reviews)

and, if not otherwise stated on the document providing notice of application, the location where the application and any studies can be reviewed;

- (e) Any other information determined appropriate by the eCounty;
- (f) A statement indicating those development regulations that will be used for project mitigation or a determination of consistency if they have been identified at the time of notice;
- (g) A statement of the minimum public comment period, which shall be 14 calendar days for all project permits except for shoreline substantial development, shoreline conditional use, shoreline variance, and major project permits for mitigation banks, which shall have a minimum comment period of no more than 30 calendar days. The notice shall specify the first and last date and time by which written public comment may be submitted.;
- (h) A statement of the right of any person to comment on the application and receive notice of and participate in any hearings, request a copy of the decision once made, and to appeal a decision when allowed by law. The department may accept public comments at any time prior to the close of the open record public hearing, or if there is no public hearing, prior to the decision on the project permit. In addition, the statement shall indicate that any person wishing to receive personal notice of any decisions or hearings must notify the department.

~~(i) Notices relating to personal wireless service facilities may state the federal preemption of local regulation of radio frequency emissions.~~

(4) The department shall issue a notice of application in the following manner:

(a) The notice shall be published once in the official eCounty newspaper and on the Whatcom County website. The applicant shall bear the responsibility of paying for such notice.

~~(a)~~(b) On or before the notice of application date, the applicant shall post such notices on all road frontages and adjacent shorelines of the subject property. The signs shall be in a format conforming to the standards found in the Department’s administrative manual and be visible to adjacent property owners and passersby. Said notices shall remain in place until 3 days after the comment period closes. The applicant shall provide the department an affidavit of posting, attesting that such notices have been properly posted and on what date.

~~(b)~~(c) Notices shall be sent to neighboring property owners as follows. Additional notice shall be given using the following method:

- i. For sites within urban growth areas and LAMIRDS: Application nNotices shall be sent to all property owners within 300 feet of the external boundaries of the subject property as shown by the records of the eCounty assessor, ~~except that for personal wireless service facilities, notice shall be sent to all property owners within 1,000 feet of the external boundaries of the subject property as shown by the records of the county assessor;~~
- ii. For sites outside urban growth areas and LAMIRDS: Application nNotices shall be sent to all property owners within 1,000 feet of the external boundaries of the subject property as shown by the records of the eCounty aAssessor.

~~(c)~~(d) The county Notices of applications shall be sent d notices of application to neighboring cities and other agencies or tribes that will potentially be affected, either directly or indirectly, by the proposed development. Notice shall also be given to public utilities, if within 500 feet of the of the provider’s service area area submitted in the application.

Commented [CES8]: Moved to wireless section, 22.05.034

Commented [CES9]: Moved from 22.05.080 and amended to put onus on applicant for posting the property.

Commented [CES10]: Moved to wireless section, 22.05.034

- (5) All public comments received on the notice of application must be received by the ~~d~~Department of ~~planning and development services~~ by 4:30 p.m. on ~~or before~~ the last day of the comment period.
- (6) Except for a determination of significance, the ~~e~~County shall not issue its SEPA threshold determination or issue a decision or recommendation on a permit application until the end of the public comment period on the notice of application. If an optional determination of nonsignificance (DNS) process is used, the notice of application and DNS comment period shall be combined.
- (7) Public notice given for project permit applications, SEPA documents, project hearings, and appeals hearings as required by this chapter and other provisions of the ~~e~~County code may be combined when practical, where such combined notice will expedite the permit review process, and where provisions applicable to each individual notice are met through the combined notice.

22.05.080 Posting of application.

~~Where posting of public notice is required per WCC 22.05.020, the department shall post public notices of the proposal on all road frontages of the subject property and adjacent shorelines on or before the notice of application date and shall be visible to adjacent property owners and to passing motorists. Said notices shall remain in place until three days after the comment period closes.~~

Commented [CES11]: Moved to 22.05.070(4)(b)

22.05.080 Application Consistency review and recommendations.

- (1) ~~During project permit review, the review authority shall determine if the project proposal is consistent with the County's Comprehensive Plan, other adopted plans, and existing regulations and development standards.~~
 - ~~(a) For Type I and II applications, the conclusions of a consistency determination made under this section shall be documented in the project permit decision.~~
 - ~~(b) For Type III, IV, and V applications the department shall prepare a staff report on the proposed development or action. For Type III and IV applications, staff shall file one consolidated report with the Hearing Examiner at least 14 calendar days prior to the scheduled open record hearing. For Type V applications, the staff report shall be filed with the County Clerk pursuant to the Council's agenda procedures. The staff report shall:
 - ~~i. Summarize the comments and recommendations of County departments, affected agencies, special districts and public comments received within the 14-day or 30-day comment period as established in WCC 22.05.070(6).~~
 - ~~ii. Provide an evaluation of the project proposal for consistency as indicated in this section.~~
 - ~~iii. Include recommended findings, conclusions, and actions regarding the proposal.~~~~

Commented [CES12]: Entire section moved from below.

(2) Notice of Additional Requirements (NOAR).

- ~~(a) For all project permit applications except for personal wireless service facilities applications, if at any time in review of the application, more information or corrections are required to determine consistency, the Department may issue a notice of additional requirements (NOAR). A NOAR is not a final administrative determination.~~
- ~~(b) The applicant shall have 90 calendar days from the date of issuance of said notice to submit all required information. However, if an applicant is non-responsive to a written request for additional information (see WCC 22.05.080(2)) for more than 60 days, an additional 30 days shall be added to the permit time review periods provided in WCC 22.05.130. "Non-~~

responsiveness" means that an applicant is not making demonstrable progress on providing additional requested information, or there is no ongoing written communication from the applicant on their ability or willingness to provide the additional information.

(c) The Director may grant a one-time 90-day extension for one, and only one, NOAR upon written request by the applicant, provided the request is submitted before the end of the NOAR response period.

(d) The Department shall issue no more than three NOARs for any one application. If a second NOAR is necessary, the Department will invite the applicant to meet—with the goal of resolving any issues—within 14 days of its issuance. If the meeting cannot resolve the issues and the Department must issue a third NOAR, upon receiving and reviewing the applicant's response the decision-maker must either approve or deny the application.

(3) **Burden of Proof.** Permit applicants/proponents have the burden of proving that the proposed development is consistent with all applicable policies and regulations.

(4) **Permit conditions.** In granting, revising, or extending a permit, the decision maker may attach such conditions, modifications, or restrictions thereto regarding the location, character, and other elements of the proposed development deemed necessary to assure that the development will be consistent with the applicable policies and regulations (including the policies and provisions of the Shoreline Management Act for shoreline permits). In cases involving unusual circumstances or uncertain effects, a condition may be imposed to require monitoring with future review or reevaluation to assure conformance. If the monitoring plan is not implemented, the permittee may be found to be noncompliant and the permit may be revoked in accordance with WCC 22.05.150 (Permit Revocation).

22.05.082 Application Suspension.

(1) In case of unanticipated circumstances, an applicant may suspend review of an application for a period not to exceed 180 days. However, application suspension may not be used just to extend the time for responding to a NOAR (WCC 22.05.080(2)).

(2) To suspend an application review, the applicant must inform the County, in writing, that they would like to temporarily suspend review of the project permit application. Review of the application shall continue once the applicant notifies the County, in writing, that they would like to resume review of the application.

(3) Applications suspended for more than 180 days shall be **expired**.

22.05.090 Open record **public hearings.**

(1) Pursuant to **As shown in** WCC 22.05.020 **Table 1** (~~Project permit processing table~~), Type III and Type IV applications and appeals of some Type I and Type II applications require an open record public hearing before the **H**earing **e** Examiner. **These hearings are subject to the following:**

(1)(2) **Open Record Hearing Notice. Public hearings shall be noticed as follows:**

(a) The **H**earing **e** Examiner shall publish a notice of open record hearing once in the official **e** County newspaper and on the Whatcom County website at least 14 calendar days prior to the hearing. The notice shall consist of the date, time, place, and type of the hearing. In addition,

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personal notice shall be provided to any person who has requested such notice in a timely manner, consistent with WCC 22.05.070 (~~Notice of Application 2~~).

- (b) Within two days of the published notice the applicant shall be responsible for posting three copies of the notice in a conspicuous manner on the property upon which the use is proposed. Notices shall be provided by the ~~h~~Hearing ~~e~~Examiner.
- (c) An affidavit verifying distribution of the notice must be submitted to the ~~h~~Hearing ~~e~~Examiner two working days prior to the open record hearing.
- (d) The ~~h~~Hearing ~~e~~Examiner shall send notice of an open record hearing to neighboring cities and other agencies or tribes that will potentially be affected, either directly or indirectly by the proposed development. The ~~h~~Hearing ~~e~~Examiner shall be responsible for such notification.
- (e) The applicant shall pay all costs associated with providing notice.

~~(2)~~(3) One Open Record Hearing. A project proposal subject to this chapter shall be provided with no more than one open record hearing and one closed record hearing pursuant to ~~RCW~~ Chapter 36.70B ~~RCW~~. This restriction does not apply to an appeal of a determination of significance as provided in RCW 43.21C.075.

~~(3)~~(4) Combined County and Agency Hearing. Unless otherwise requested by an applicant, the ~~e~~County shall allow an open record hearing to be combined with a hearing that may be necessary by another local, state, regional, federal or other agency for the same project if the joint hearing can be held within the time periods specified in Chapter 22.05 WCC, or if the applicant agrees to waive such time periods in the event additional time is needed in order to combine the hearings. The combined hearing shall be conducted in Whatcom County pursuant to Chapter 36.70B RCW.

~~(4)~~(5) Quasi-judicial actions, including applications listed as Type III and IV applications in WCC 22.05.020, are subject to the appearance of fairness doctrine, Chapter 42.36 RCW. The ~~h~~Hearing ~~e~~Examiner shall administer the open record hearing and issue decisions or recommendations in accordance with Chapter 42.36 RCW.

~~**22.05.100 Application Consistency review and recommendations.**~~

- ~~(1) During project permit review, the review authority shall determine if the project proposal is consistent with the county's Comprehensive Plan, other adopted plans, and existing regulations and development standards.~~
 - ~~(a) For Type I and II applications, the conclusions of a consistency determination made under this section shall be documented in the project permit decision.~~
 - ~~(b) For Type III and IV applications the department shall prepare a staff report on the proposed development or action. Staff shall file one consolidated report with the hearing examiner at least 104 calendar days prior to the scheduled open record hearing. The staff report shall:
 - ~~i. Summarize the comments and recommendations of county departments, affected agencies, special districts and public comments received within the 14 day or 30 day comment period as established in WCC 22.05.070(6).~~
 - ~~ii. Provide an evaluation of the project proposal for consistency as indicated in this section.~~
 - ~~iii. Include recommended findings, conclusions, and actions regarding the proposal.~~~~

Commented [CES13]: Section moved to 22.05.080

~~Additional Requirements.~~ For all project permit applications except for personal wireless service facilities applications, if more information is required to determine consistency at any time in review of the application, the department may issue a notice of additional requirements. The applicant notice of additional requirements shall allow the applicant have 180 calendar days from the date of issuance of said notice to submit all required information.

~~Permit Inactivity.~~ Any application that remains inactive for a period of 180 days shall expire and a new application and repayment of fees shall be required to reactivate the proposal; provided, that the director or designee may grant a 1-year extension for good cause extend this period for no more than cumulative 24 months upon written request by the applicant, provided the request is submitted before the end of the first 180-day period. A notice of additional requirements is not a final administrative determination.

~~(2) Burden of Proof.~~ Permit applicants/proponents have the burden of proving that the proposed development is consistent with all applicable policies and regulations.

~~Permit conditions.~~ In granting, revising, or extending a permit, the decision maker may attach such conditions, modifications, or restrictions thereto regarding the location, character, and other elements of the proposed development deemed necessary to assure that the development will be consistent with the applicable policies and regulations (including the policies and provisions of the Shoreline Management Act for shoreline permits). In cases involving unusual circumstances of uncertain effects, a condition may be imposed to require monitoring with future review or reevaluation to assure conformance. If the monitoring plan is not implemented, the permittee may be found to be noncompliant and the permit may be revoked in accordance with WCC 22.05.150 (Permit Revocation).

22.05.110 Final decisions – Type I, II, and III applicationsProcesses.

- (1) The ~~d~~Director's final decision on all Type I or II applications shall be in the form of a written determination or permit. The determination or permit may be granted subject to conditions, modifications, or restrictions that are necessary to comply with all applicable codes.
- (2) The ~~h~~Hearing ~~e~~Examiner's final decision on all Type III applications per WCC 22.05.020 or appeals per WCC 22.05.160(1) shall either grant or deny the application or appeal.
 - (a) The ~~h~~Hearing ~~e~~Examiner may grant Type III applications subject to conditions, modifications, or restrictions that the ~~y~~ hearing examiner finds are necessary to make the application compatible with its environment, ~~or~~ carry out the objectives and goals of the Comprehensive Plan, statutes, ordinances and regulations as well as other official policies and objectives of Whatcom County.
 - (b) Requirements.
 - i. Performance bonds or other security may be required to ensure compliance with the conditions, modifications, and restrictions consistent with WCC 22.05.134 (Security mechanisms).
 - ii. Fossil or renewable fuel refinery or fossil or renewable fuel transshipment facilities: The applicant shall provide insurance or other financial assurance acceptable to the prosecuting attorney consistent with WCC 22.05.125.

- (c) The ~~h~~Hearing ~~e~~Examiner shall render a final decision within 14 calendar days following the conclusion of all testimony and hearings. Each final decision of the ~~h~~Hearing ~~e~~Examiner shall be in writing and shall include findings and conclusions based on the record to support the decision.
- (d) No final decision of the ~~h~~Hearing ~~e~~Examiner shall be subject to administrative or quasi-judicial review, except as provided herein.
- (e) The applicant, any person with standing, or any ~~e~~County department may appeal any final decision of the ~~h~~Hearing ~~e~~Examiner to ~~superior court, except as otherwise~~the appeal body specified in WCC 22.05.020 ~~Error! Reference source not found.~~

22.05.120 Recommendations and final decisions – Type IV ~~applications~~Processes.

- (1) For Type IV ~~applications-processes~~ per WCC 22.05.020 the ~~h~~Hearing ~~e~~Examiner’s recommendations to the ~~e~~County ~~e~~Council may be to grant, grant with conditions or deny an application. The ~~h~~Hearing ~~e~~Examiner’s recommendation may include conditions, modifications, or restrictions as may be necessary to make the application compatible with its environment ~~or~~ carry out the objectives and goals of the Comprehensive Plan, statutes, ordinances and regulations as well as other official policies and objectives of Whatcom County.
- (2) Each recommended decision of the ~~h~~Hearing ~~e~~Examiner for an application identified as a Type IV ~~application-process~~ per WCC 22.05.020 shall be in writing to the ~~e~~Clerk of the ~~e~~County ~~e~~Council and shall include findings and conclusions based upon the record to support the decision. Such findings and conclusions shall also set forth the manner in which the decision carries out and conforms to the ~~e~~County’s Comprehensive Plan and complies with the applicable statutes, ordinances or regulations.
- (3) The deliberation of the ~~e~~County ~~e~~Council on quasi-judicial actions shall be in accordance with WCC 22.05.090(4) and Chapter 42.36 RCW.
- (4) For planned unit developments and major project permits the following shall apply:
 - (a) The recommendation of the ~~h~~Hearing ~~e~~Examiner regarding planned unit developments and major project permits shall be based upon the criteria set forth in WCC 20.85.335 and 20.88.130, respectively.
 - (b) The ~~h~~Hearing ~~e~~Examiner shall file the recommendation with the ~~e~~Clerk of the ~~e~~County ~~e~~Council within 21 calendar days following the conclusion of the open record hearing.
 - (c) The ~~e~~County ~~e~~Council shall conduct the following within the specified time frames, except as provided in subsection (~~4~~)(~~e~~)(iii) of this ~~subsection~~:
 - i. Hold a ~~public meeting, not an open~~closed record ~~public~~ hearing, to deliberate on the project application within 28 calendar days after receiving the ~~h~~Hearing ~~e~~Examiner’s recommendation.
 - ii. Issue a final written decision within 21 calendar days of the ~~closed record hearing~~public meeting.
 - iii. The ~~e~~County ~~e~~Council may exceed the time limits in subsection (4)(c)(i) or (4)(c)(ii) of this section if their ~~county council~~ meeting schedule does not accommodate a ~~closed record hearing meeting~~ within the above time-frames, or if they ~~county council~~ makes written

findings that a specified amount of additional time is needed to process a specific application or project type, per RCW 36.70B.080(1).

- (5) The ~~e~~County ~~e~~Council’s final written decision may include conditions when the project is approved and shall state the findings of fact upon which the decision is based.
 - (a) Securities may be required to ensure compliance with the conditions, modifications and restrictions consistent with WCC 22.05.134 (Security mechanisms).
 - (b) Fossil or renewable fuel refinery or fossil or renewable fuel transshipment facilities: The applicant shall provide insurance or other financial assurance acceptable to the prosecuting attorney consistent with WCC 22.05.125.
- (6) Any deliberation or decision of the ~~e~~County ~~e~~Council shall be based solely upon consideration of the record established by the ~~h~~Hearing ~~e~~Examiner, the recommendations of the ~~h~~Hearing ~~e~~Examiner, and the criteria set forth in applicable ~~e~~County code, the ~~e~~County Comprehensive Plan if applicable, and the ~~Whatcom e~~County Shoreline Management Program, including compliance with SEPA, Chapter 197-11 WAC (SEPA Rules) as adopted and modified in the ~~e~~County code, and the ~~e~~County’s adopted SEPA policies.

~~22.05.125 Proof of insurance for hazards created in the county.~~

~~For expansion projects requiring approval under a conditional use permit or major project permit at new or existing facilities per WCC 20.68.153 or 20.68.154, financial assurance for the benefit of Whatcom County shall be required. For such expansion projects, a permittee must demonstrate proof of financial assurance (such as trust funds, letters of credit, insurance, self insurance, financial tests, corporate guarantees, payment bonds, or performance bonds) sufficient to comply with the financial responsibility requirements set forth in state and federal law, as applicable, prior to permit approval by a Whatcom County decision maker. If the financial assurance is in the form of insurance policies, the policies must name Whatcom County as an additional insured and provide Whatcom County with a certificate of insurance to that effect.~~

~~The permittee must maintain the approved level of financial assurance coverage for new or expanded uses while operating the permitted facility. At the request of the permittee, the Whatcom County decision maker may approve new or altered forms of financial assurance to meet the requirements of this section; provided, that the new or altered form is consistent with the scope and intent of the original permit condition.~~

~~22.05.130 Permit review time frames periods.~~

- (1) ~~The county shall issue a notice of final decision~~ For all permit types ~~(other than for personal wireless service facilities, addressed in WCC 22.05.190)~~, including procedures for administrative appeal and notice that affected property owners may request a change in valuation for property tax purposes, ~~the County shall issue a notice of final decision~~ to the applicant, the Whatcom County assessor, and any person who requested notice or submitted substantive comments on the application, within ~~120 the number of~~ calendar days ~~listed in subsection (a)~~ of the date the department determined the application complete, except as provided ~~below~~ in subsections (b) – (h).~~;~~

Commented [CES14]: Moved to below.

- (a) Permit time review periods:
 - i. For project permits required to undergo a Type I process: 65 days;
 - ii. For project permits required to undergo a Type II process: 100 days;
 - iii. For project permits required to undergo a Type III process: 170 days.
- (b) The following time periods shall be excluded from the calculation of the number of days elapsed:
 - i. Any period between the day that the County has notified the applicant, in writing, that additional information is required to further process the application and the day when responsive information is resubmitted by the applicant. Any period during which the applicant has been required by the county to correct plans, perform required studies, or provide additional, required information through a notice of additional requirements, per WCC 22.05.100(3). The period shall be calculated from the date the county issues a notice of additional requirements until the date the county receives all of the requested additional information.
 - ii. Any period during which an environmental impact statement is being prepared following a determination of significance pursuant to Chapter 43.21C RCW and WCC Title 16. This period starts when a determination of significance is issued and ends when a final environmental impact statement (FEIS) is issued;
 - iii. The period after which an administrative appeal is filed (WCC 2.11.215) until it is resolved, and any additional time period provided by the administrative appeal has expired, specified for administrative appeals of project permits as provided in Chapter 2.11 WCC;
 - iv. The period specified for administrative variances from or appeals of development standards as provided in WCC Chapter 12.08.035(4);
 - v. Any period in which the applicant has not met public notification requirements;
 - vi. Any period of time mutually agreed upon in writing by the applicant and the County.
 - vii. Any period application review is suspended pursuant to WCC 22.05.082.
- (c) The time limits established by this section shall not apply to a project permit application that:
 - i. Is required to undergo a Type IV or V process.
 - i. ~~Requires an amendment to the Whatcom County Comprehensive Plan or a development regulation in order to obtain approval.~~
 - ii. Requires approval of a new fully contained community as provided in RCW 36.70A.350, a master planned resort as provided in RCW 36.70A.360, or the siting of an essential public facility as provided in RCW 36.70A.200.
- (d) ~~Is substantially revised by the applicant, including all redesigns of proposed land divisions, in which case a new time period shall start from the date at which the revised project application is determined to be complete. The time periods of subsection (a) to process a permit shall start over if an applicant proposes a redesign of proposed land divisions, proposes a change in use, or removes commercial or residential elements from the original application that would make the application fail to meet the determination of procedural completeness, as required by the County under RCW 36.70B.~~

Commented [CES15]: Amended to match language of 5290

~~(e) Additionally, for shoreline permits and exemptions, and pursuant to WAC 173-27-125, the following special procedures apply to Washington State Department of Transportation (WSDOT) projects:~~

~~i. Pursuant to RCW 47.01.485, the Legislature established a target of 90 days review time for local governments.~~

~~ii. Pursuant to RCW 90.58.140, WSDOT projects that address significant public safety risks may begin twenty-one days after the date of filing if all components of the project will achieve no net loss of shoreline ecological functions.~~

~~(e) The county may extend notice of final decision on the project if the county can document legitimate reasons for such a delay. In such a case the county shall provide written notice to the applicant at least 14 calendar days prior to the deadline for the original notice of final decision. The notice shall include a statement of reasons why the time limits have not been met and a date of issuance of a notice of final decision.~~

~~(f) Eligible facility requests for personal wireless service facilities shall be subject to the following permit review time frames, tolling, and deemed granted provisions:~~

~~i. An application for an eligible facilities request is reviewed by the county, who will approve the application within 60 days of the date an applicant submits an eligible facilities request application, unless it determines that the proposal does not qualify as an eligible facilities request under Chapter 20.13 WCC.~~

~~ii. If the county determines that the applicant's request does not qualify as an eligible facilities request, the county shall deny the application within 60 days of the date an applicant submits an eligible facilities request application. The denial shall be in writing and supported by substantial evidence contained in the written record. If an eligible facilities request application is denied, a new application may be submitted under the appropriate personal wireless service facilities provisions of Chapter 20.13 WCC.~~

~~iii. The 60-day review period begins to run when the application is filed and may be tolled only by mutual agreement by the county and the applicant or in cases where the county determines that the application is incomplete. The time frame for review is not tolled by a moratorium on the review of applications.~~

~~iv. To toll the time frame for incompleteness, the county must provide written notice to the applicant within 30 days of receipt of the application, clearly and specifically delineating all missing documents or information required in the application.~~

~~v. The time frame for review begins running again when the applicant makes a supplemental submission in response to the county's notice of incompleteness.~~

~~vi. Following a supplemental submission, the county will notify the applicant within 10 days if the supplemental submission did not provide the information identified in the original notice delineating missing information. The time frame is tolled in the case of second or subsequent notices pursuant to the procedures identified in this section. Second or subsequent notice of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness.~~

- vii. In the event the county fails to approve or deny an eligible facilities request within the time frame for review (accounting for any tolling), the request shall be deemed granted if required by federal law or federal regulation. The deemed grant does not become effective until the applicant notifies the county in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted. The applicant shall provide a citation to the federal law or federal regulation that requires the deemed granted status.
- (g) Small wireless facilities shall be subject to the following permit review time frames and tolling periods (collectively known as shot clock periods):
 - i. Review of an application to collocate a small wireless facility using an existing structure: 60 days.
 - ii. Review of an application to deploy a small wireless facility using a new structure: 90 days.
 - iii. Unless a written agreement between the applicant and the county provides otherwise, the tolling period for an application is as set forth below.
 - iv. For an initial application for small wireless facilities, if the county notifies the applicant on or before the tenth day after submission that the application is materially incomplete, and clearly and specifically identifies the missing documents or information and the specific rule or regulation creating the obligation to submit such documents or information, the shot clock date calculation shall restart at zero on the date on which the applicant submits all the documents and information identified by the county to render the application complete.
 - v. For resubmitted applications following a notice of deficiency, the tolling period shall be the number of days from the day after the date when the county notifies the applicant in writing that the applicant's supplemental submission was not sufficient to render the application complete and clearly and specifically identifies the missing documents or information that need to be submitted based on the county's original request until the date when the applicant submits all the documents and information identified by the county to render the application complete. The notice pursuant to this section must be issued on or before the tenth day after the date when the applicant makes a supplemental submission in response to the county's written notification.
 - vi. The shot clock date for an application is determined by counting forward, beginning on the day after the date when the application was submitted, by the number of calendar days of the shot clock period identified in this subsection (1)(g); provided, that if the date calculated in this manner is a federal, state, or local holiday, the shot clock date is the next business day after such date. The term "business day" means any day, except Saturday or Sunday, that is not a legal holiday.
- (h) Macro wireless facilities shall be subject to the following permit review time frames and tolling periods (collectively known as shot clock periods):
 - i. Review of an application to collocate a macro wireless facility using an existing structure: 90 days.

- ii. ~~Review of an application to deploy a macro wireless facility using a new structure: 150 days.~~
- iii. ~~Unless a written agreement between the applicant and the county provides otherwise, the tolling period for an application is as set forth below.~~
- iv. ~~For an initial application for macro wireless facilities, the tolling period shall be the number of days from: The day after the date when the county notifies the applicant in writing that the application is materially incomplete and clearly and specifically identifies the missing documents or information that the applicant must submit to render the application complete and the specific rule or regulation creating this obligation until the date when the applicant submits all the documents and information identified by the county to render the application complete. The notice pursuant to this section must be issued on or before the thirtieth day after the date when the application was submitted to toll the review time frame.~~
- v. ~~For resubmitted applications following a notice of deficiency, the tolling period shall be the number of days from the day after the date when the county notifies the applicant in writing that the applicant's supplemental submission was not sufficient to render the application complete and clearly and specifically identifies the missing documents or information that need to be submitted based on the county's original request until the date when the applicant submits all the documents and information identified by the county to render the application complete. The notice pursuant to this section must be issued on or before the tenth day after the date when the applicant makes a supplemental submission in response to the county's written notification.~~
- vi. ~~The shot clock date for an application is determined by counting forward, beginning on the day after the date when the application was submitted, by the number of calendar days of the shot clock period identified in this subsection (1)(f); provided, that if the date calculated in this manner is a federal, state, or local holiday, the shot clock date is the next business day after such date. The term "business day" means any day, except Saturday or Sunday, that is not a legal holiday.~~

~~(2) If an applicant believes a project permit application has not been acted upon by the county in a timely manner or otherwise consistent with this chapter, the applicant or authorized representative may request a meeting with the director to resolve the issue. Within 14 calendar days of after the meeting, the director shall:~~

- ~~(a) Approve the permit if it is within the director's authority to do so, provided the approval would not violate state or county regulations; or~~
- ~~(b) Deny the permit if it is within the director's authority to do so; or~~
- ~~(c) Respond in writing with the department's position, or a mutually acceptable resolution of the issue, which may include a partial refund of application fees at the director's discretion.~~

~~(2)~~ (2) Any final order, permit decision, or determination issued by Whatcom County shall include a notice to the applicant of his or her appeal rights per WCC 22.05.160. Appeals.

~~(3)~~ (3) The provisions of this section notwithstanding, the failure to issue a final decision within the time frames specified, ~~except for eligible facility requests for personal wireless service facilities~~

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governed by WCC 22.05.190(7)(a)(vii), shall not be considered an implicit approval or denial of the development permit, nor shall it be reason in and of itself for the eCounty to be liable for damages for failure to meet the specified time frames.

~~(a) Exception. Eligible facility requests for personal wireless service facilities shall be governed by WCC 22.05.130(1)(d).~~

22.05.132 Proof of Insurance for Hazards Created in the County.

- (1) For expansion projects requiring approval under a conditional use permit or major project permit at new or existing facilities per WCC 20.68.153 or 20.68.154, financial assurance for the benefit of Whatcom County shall be required. For such expansion projects, a permittee must demonstrate proof of financial assurance (such as trust funds, letters of credit, insurance, self-insurance, financial tests, corporate guarantees, payment bonds, or performance bonds) sufficient to comply with the financial responsibility requirements set forth in state and federal law, as applicable, prior to permit approval by a Whatcom County decision maker. If the financial assurance is in the form of insurance policies, the policies must name Whatcom County as an additional insured and provide Whatcom County with a certificate of insurance to that effect.
- (2) The permittee must maintain the approved level of financial assurance coverage for new or expanded uses while operating the permitted facility. At the request of the permittee, the Whatcom County decision maker may approve new or altered forms of financial assurance to meet the requirements of this section; provided, that the new or altered form is consistent with the scope and intent of the original permit condition.

Commented [CES17]: Moved from above.

22.05.134 Security mechanisms.

- (1) This section is applicable to securities required by planning and development services and the codes over which it has jurisdiction; those required by public works are governed by the Whatcom County development standards.
- (2) In approving any permit application, the decision maker may require the posting of financial securities, in a form acceptable to the eCounty's attorney, to ensure compliance with any code requirements or conditions imposed, including but not limited to the construction of improvements, environmental mitigation or improvements, installation of landscaping, the adherence to eCounty standards, and/or maintenance, repair, or replacement of such improvements.
- (3) The eCounty may accept any of the following: bonds, letters of credit from an insured bank, a secured account with an insured bank, or a cash deposit. Other forms of security may be accepted if approved by the eCounty's attorney.
- (4) Performance Securities.
 - (a) Except as provided in subsection (4)(c) of this section:
 - i. A performance security shall be provided to guarantee that a site can be closed and/or winterized if necessary, or that measures can be taken by the eCounty to respond to weather-related emergencies.
 - ii. In lieu of installing improvements or a condition of a permit, an applicant may propose to post a security to ensure completion of any improvements for which construction plans have been approved. Said improvements shall be installed within one year of final project

permit approval. An extension not to exceed one year may be approved upon extension of the security or submission of a new one.

- iii. A performance security may be required to cover the cost of installing any system-wide improvements that an applicant has agreed to install as part of his project where the lack of installation would cause the system to fail or not be completed in a timely manner.
- iv. Performance securities are also required for certain improvements that the eCounty may want removed after a certain time or after the improvement is no longer used (e.g., telecommunications towers, wind turbines, etc.).

(b) Performance securities may be presented to the eCounty after preliminary approval of a project but in all circumstances shall be presented prior to any site work, including clearing, grading, or construction.

(c) Submission of a performance security may be waived by the dDirector if, in his opinion, said guarantee of installation is not necessary.

(5) Maintenance Securities. An applicant shall provide to the eCounty a maintenance security to cover the cost of replacing or repairing any of the improvements installed per the Whatcom County Code or a condition of a permit.

(6) Amount of the Security.

(a) The amount of a security shall be a percentage, as specified below, of the estimated cost of design, materials, and labor, based on the estimated costs on the last day covered by the device, of installing, replacing, or repairing (whichever is appropriate) the improvements covered by the security.

- i. Performance – 125 percent of the costs specified in subsection (6)(a) of this section.
- ii. Maintenance – 20 percent of the costs specified in subsection (6)(a) of this section.

(b) The dDirector shall approve the amount of a security under subsection (6)(a) of this section. The applicant shall prepare for his review and approval a certified cost estimate of the items to be covered by the security.

(7) Reduction of Securities. In those cases where securities have been made, and only with the dDirector's approval, the amount of the security may be reduced upon acceptance of a portion of the required improvements. The amount of the reduction shall not exceed the percentage that the accepted improvements made up of all originally required improvements. In no case, however, shall the security be reduced to less than 25 percent of the original amount.

(8) Duration of Securities. All securities shall be held until released by the dDirector; however, the standard duration of the various securities should be as follows:

- (a) Performance – One year or until all improvements are installed and accepted by the eCounty, whichever is greater.
- (b) Maintenance – Two years; extendable by the eCounty if repairs are made at the end of the security period which, in the opinion of the dDirector, require additional guarantee of workmanship.

(9) Security Agreement. In each case where a security is posted, the applicant and the dDirector shall sign a notarized security agreement, approved in form by the eCounty attorney. This agreement

shall be recorded with the Whatcom County auditor. The agreement shall provide the following information:

- (a) A description of the work or improvements covered by the security.
 - (b) Either the period of time covered by the maintenance security or the date after which the ~~e~~CCounty will use the proceeds of the performance security to complete the required work or improvements.
 - (c) The amount and nature of the security and the amount of the cash deposit.
 - (d) The rights and duties of the ~~C~~eCounty and the applicant.
 - (e) An irrevocable license to run with the property to allow the employees, agents, or contractors of the ~~e~~CCounty to go on the subject property for the purpose of inspecting and, if necessary, doing the work or making the improvements covered by the security.
 - (f) The mechanism by and circumstances under which the security shall be released. At a minimum, after the work or improvements covered by a performance security have been completed, or at the end of the time covered by a maintenance security, the applicant may request the ~~e~~CCounty to release the security. If the applicant has complied with the security agreement and this code, the ~~d~~Direktor shall release the security remaining. If the work has not been completed or repairs not made, then the ~~e~~CCounty shall not release the security until such work is completed per subsection (11) of this section (Use of Security Funds by the County). Partial release of the security may be allowed; provided, that the developer provides a new security in the amount specified in subsection (6) of this section (Amount of the Security) for the remaining work.
 - (g) Upon release of any recorded security mechanism a copy of the letter of release shall be filed with the Whatcom County auditor.
- (10)Supplemental Administrative Costs. In addition to the security, the applicant shall pay a fee to the ~~e~~CCounty covering the ~~e~~CCounty’s actual expenses of administering, and, if necessary, using the proceeds of the security. The amount of this fee will be set by the ~~e~~CCounty ~~e~~Council in the Unified Fee Schedule.
- (11)Use of Security Funds by the County.
- (a) If during the period of time covered by a maintenance security, or after the date by which the required work or improvements are to be completed under a performance security, the ~~d~~Direktor determines that the security agreement has not been complied with, he shall notify the applicant of this. The notice must state:
 - i. The work that must be done or the improvements that must be made to comply with the security agreement; and
 - ii. The amount of time, not to exceed 30 days, that the applicant has to commence and complete the required work or improvements; and
 - iii. That, if the work or improvements are not commenced and completed within the time specified, the ~~e~~CCounty will use the proceeds of the security to have the required work or improvements completed.
 - (b) If the work or improvements covered by the security are not completed within the time specified in the notice, the ~~e~~CCounty shall obtain the proceeds of the security and shall cause such work to be completed.

- (c) The applicant is responsible for all costs incurred by the eCounty in administering, maintaining, or making the improvements covered by the security(s). The eCounty shall release or refund any proceeds of a performance or maintenance security remaining after subtracting all costs for doing the work or making the improvements covered by the security. The applicant shall reimburse the eCounty for any amount expended by the eCounty that exceeds the proceeds of the security. The eCounty may file a lien against the subject property for the amount of any excess.
- (d) In each case where the eCounty uses any of the funds of a security, it shall give the applicant an itemized statement of all funds used. (Ord. 2023-018 § 1 (Exh. A)).

22.05.140 Expiration of project permits.

~~(1)~~ This section shall apply to non-shoreline project permits and shoreline statements of exemption. Expiration of shoreline permits shall be subject to the rules of WCC 22.07.080 (Expiration of Shoreline Permits).

~~(2)~~(2) Project permit approval status shall expire two years from the date of approval except where a different duration of approval is authorized by Whatcom County Code, or is established by a court decision or state law, or executed by a development agreement. The decision maker may extend this period up to one year from the date of original expiration upon written request by the applicant.

~~(3)~~(3) Any complete project permit application for which no information has been submitted in response to the department's notice of additional requirements per WCC 22.05.100(3) shall expire at the end of the time limit established in 22.05.100(3).

~~(4)~~(4) For projects that have received a SEPA determination of significance per Chapter 16.08 WCC, all underlying project permit applications shall expire when one of the following occurs:

- (a) The applicant has not in good faith maintained a contract with a person or firm to complete the environmental impact statement (EIS) as specified in the scoping document. The applicant is responsible for informing the eCounty of the status of such contract. If there is no notice given to the eCounty, all underlying project permit applications shall expire upon the end date of the contract; or
- (b) The mutually agreed time frame to complete the draft EIS or final EIS has lapsed.

~~(5)~~(5) Project permits which received preliminary approval or a final decision prior to February 22, 2009, that did not include an expiration time frame in the conditions of approval shall expire on June 16, 2020.

22.05.150 Permit revocation procedure.

(1) Upon notification by the eDirector that a substantial violation of the terms and conditions of any previously granted zoning conditional use, shoreline substantial development, or shoreline conditional use permit exists, the eHearing eExaminer shall issue a summons as per WCC 2.11.220 to the permit holder requiring said permit holder to appear and show cause why revocation of the permit should not be ordered. Failure of the permit holder to respond may be deemed good cause for revocation.

- (2) Upon issuance of a summons as set forth in subsection (1) of this section, the **hHearing eExaminer** shall schedule an open record hearing to review the alleged violations. The summons shall include notice of the hearing and shall be sent to the permit holder and the **dDirector of pPlanning and dDevelopment sServices** no less than 12 calendar days prior to the date of the hearing. At the hearing the **hHearing eExaminer** shall receive evidence of the alleged violations and the responses of the permit holder, as per the business rules of the **hHearing eExaminer’s** office. Testimony shall be limited to that of the division and the permit holder except where additional evidence would be of substantial value in determining if revocation should be ordered. The land use division’s evidence may include the testimony of witnesses.
- (3) Upon a showing of violation by a preponderance of the evidence as alleged, the **hHearing eExaminer** may revoke the permit or allow the permit holder a reasonable period of time to cure the violation. If the violation is not cured within the time set by the **hHearing eExaminer**, the permit shall be revoked. Where a time to cure the violation has been set out, no further hearing shall be necessary prior to the revocation. The permit holder shall have the burden of proving that the violation has been cured within the time limit previously set. Such evidence as is necessary to demonstrate that the violation has been cured may be submitted to the **hHearing eExaminer** by either the permit holder or the **dDirector of pPlanning and dDevelopment sServices**. Any revocation shall be accompanied by written findings of fact and conclusions of law. The permit holder shall be notified of any revocation within 14 calendar days of the revocation.

22.05.160 Appeals.

- (1) Except for decisions regarding personal wireless service facilities, addressed in WCC 22.05.190(9), ~~a~~Any person with standing may appeal any order, final permit decision, or final administrative determination made by the **dDirector or designee** in the administration or enforcement of any chapter to the **hHearing eExaminer**, who has the authority to hear and decide such appeals per WCC 2.11.210. ~~Appeals relating to personal wireless service facilities are filed with a court of competent jurisdiction rather than the hearing examiner.~~
 - (a) To be valid, an appeal to the **hHearing eExaminer** shall be filed, on a form provided by the department, with the department within 14 calendar days of the issuance of a final permit decision and shall be accompanied by a fee as specified in the Unified Fee Schedule. The written appeal shall include:
 - i. The action or decision being appealed and the date it was issued;
 - ii. Facts demonstrating that the person is adversely affected by the decision;
 - iii. A statement identifying each alleged error and the manner in which the decision fails to satisfy the applicable decision criteria;
 - iv. The specific relief requested; and
 - v. Any other information reasonably necessary to make a decision on the appeal.
 - (b) The **hHearing eExaminer** shall schedule an open record public hearing on the appeal to be held within 60 calendar days following the department’s receipt of the application for appeal unless otherwise agreed upon by the **eCounty** and the appellant.

Commented [CES18]: Moved to wireless section, 22.05.034

- (c) A party who fails to appeal within 14 calendar days is barred from appeal, per Chapter 2.11 WCC.
- (d) The business rules of the ~~h~~Hearing ~~e~~Examiner shall govern appeal procedures. The ~~h~~Hearing ~~e~~Examiner shall have the authority granted in the business rules, and that authority is incorporated herein by reference. See also WCC 2.11.220.
- (2) ~~For non-shoreline permits, The applicant~~ any person with standing, or any ~~e~~County department may appeal any final decision of the ~~h~~Hearing ~~e~~Examiner to superior court or other body as specified by WCC 22.05.020. The appellant shall file a written notice of appeal within 21 calendar days of the final decision of the ~~h~~Hearing ~~e~~Examiner, as provided in RCW 36.70C.040.
- (3) ~~For shoreline permits, after the issuance of the appeal determination, a party with standing may appeal to the Shorelines Hearings Board a decision on a shoreline substantial development permit, shoreline variance, or shoreline conditional use pursuant to RCW 90.58.180 within 21 days of the "date of filing" as defined in Title 23 (Shoreline Management Program) and RCW 90.58.140(6). The appeal to the Shorelines Hearing Board shall be filed in accordance with the provisions of Chapter 461-08C WAC. Appeals of a decision of the Department of Ecology shall be filed in accordance with the provisions of Chapter 461-08C WAC.~~

22.05.170 Annual report.

Staff shall prepare an annual report on the implementation of this chapter and submit it to the council.

22.05.180 Interpretation, conflict and severability.

- (1) **Interpret to Protect Public Welfare.** In the event of any discrepancies between the requirements established herein and those contained in any other applicable regulation, code or program, the regulations which are more protective of the public health, safety, environment and welfare shall apply.
- (2) **Severability.** The provisions of this chapter are severable. If a section, sentence, clause, or phrase of this title is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the remaining portions of this chapter.

TITLE 22 LAND USE AND DEVELOPMENT

Chapter 22.25 Land Use and Development Fees

22.25.010 Purpose and applicability.

- (1) The purpose of this chapter is to establish the authority for collecting fees for various land use and development review services, as well as provisions for reductions and refunds of those fees.
- (2) The provisions of this chapter shall apply to fees charged for procedures contained in the following titles of the WCC:
 - (a) WCC Title 15, Buildings and Construction;
 - (b) WCC Title 16, Environment;
 - (c) WCC Title 17, Flood Damage Prevention;
 - (d) WCC Title 20, Zoning;
 - (e) WCC Title 21, Land Division Regulations;
 - (f) WCC Title 22, Land Use and Development ~~Procedures~~; and
 - (g) WCC Title 23, Shoreline Management Program.

22.25.020 Application fees and other fees.

Fees for project permit applications, legislative amendments, land use and development code interpretations, and other approvals and reviews as set forth in this title shall be as provided in the Unified Fee Schedule.

~~22.25.030 Reduced application fees.~~

~~When any given project requires more than one of the following permits or applications, the total amount of fees shall be reduced by 25% percent of the required aggregate permit and application fees; provided, any fees required for processing of an Environmental Impact Statement (EIS) shall not be included as part of the total amount of fees to be reduced by 25% percent:~~

- ~~(1) Subdivision plat applications;~~
- ~~(2) Rezone applications;~~
- ~~(3) Shoreline substantial development permits, variances, or conditional uses;~~
- ~~(4) Major development permits;~~
- ~~(5) Conditional use permits;~~
- ~~(6) Non Shoreline Variances, minor or major;~~
- ~~(7) Planned unit developments.~~

22.25.040 Refund of application fees.

Refunds of application fees for project permits and for amendments to the Whatcom County Comprehensive Plan, development regulations and official maps shall be computed based on the following, unless otherwise indicated in the Whatcom County Code. All refund requests shall be submitted in writing to the department of planning and development services ~~and~~ Director. The date of application for a refund request shall be the date the written refund request is received by the

department. For the purpose of computing elapsed calendar days, the day after the date of application or deadline date as appropriate shall be counted as day one.

(1) Refund of Fees for Project Permits.

(a) Withdrawn Applications.

- i. Applications withdrawn on or before the ~~fourteenth-14th~~ calendar day after the date of application shall be eligible for a refund of ~~90% percent~~ of all application fees including any SEPA fees.
- ii. Applications withdrawn after the period set forth in subsection (1)(a) of this section but on or before the ~~ninetieth-30th~~ calendar day after the date of application shall be eligible for a refund of ~~50% percent~~ of all application fees except for any SEPA fees which shall not be eligible for a refund.
- iii. Applications withdrawn after the ~~ninetieth-30th~~ calendar day after the date of application shall not be eligible for a refund.

Commented [CES19]: Revising fee date as most projects will be approved well before the 90th day.

~~(b) Notwithstanding the above, no fees shall be refunded for any permit or approval that has been issued or granted by the county.~~

~~(c) The director may authorize a full refund of any project permit application fee paid in error.~~

(2) Refund of Fees for Aamendments to the Whatcom County Comprehensive Plan, Development Regulations, and Official Maps.

(a) The docketing fee shall be nonrefundable.

(b) The amendment application fee may be refunded, if the application is withdrawn, as follows:

- i. If the application has been docketed, but review of the application has not commenced, ~~100% percent~~ of the application fee may be refunded.
- ii. If the application has been docketed and review of the application has commenced, but the staff report has not been issued, ~~75% percent~~ of the application fee may be refunded.
- iii. If the application has been docketed and a staff report has been issued, but a planning commission hearing has not been held, ~~50% percent~~ of the application fee may be refunded.
- iv. If the application has been docketed and the planning commission has held a public hearing, then the application fee may not be refunded.

(c) The SEPA checklist fee may be refunded if the application is withdrawn and SEPA review has not commenced.

(d) The legal notice fee may be refunded if the application is withdrawn and legal notice has not been published.

~~(3) The Director may authorize a full refund of any project permit application fee paid in error.~~

~~(4) Notwithstanding the above, no fees shall be refunded for any permit or approval that has been issued or granted by the County.~~

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