



WHATCOM COUNTY PLANNING COMMISSION

5280 Northwest Drive
Bellingham WA 98226

AGENDA February 22, 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: January 25th, 2024 and February 8, 2024
- Meeting Topic: *Work Session on Propane in the AG Zone*
- 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
January 25, 2024**

Public Hearing and Work Session

1

1 **Call to Order**

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

4 **Roll Call**

5 **Present:** Kelvin Barton, Daniel Dahlquist, Atul Deshmane, Jim Hansen, Frank James,
6 Dominic Mocerri, Scott Van Dalen

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

8 **Staff Present:** Lucas Clark, Aileen Kogut-Aguon, Kelly Chamberlain, Becky Boxx, Steve
9 Roberge

10 **Department Update**

11 Steve Roberge, Assistant Director of Planning and Development Services (PDS) explains
12 that the annual business meeting will include electing a chair, vice chair and reviewing
13 the business rules and dockets. Roberge adds that the first half of the year will have
14 discussions about the comprehensive plan which will include the public participation plan
15 component, land capacity methodology and population employment projections.
16 Roberge then speaks on other items such as bringing Capital Improvement Plan (CIP)
17 back into conversation with some additions and modifications. Big projects occurring are
18 ABC recycling and Ranch Quarry Mine. Roberge concluded the updates with the mention
19 of a new Natural Resource manager starting in mid-February.

20 **Open Session Public Comment**

21 **Timestamp 6:36p**

22 Dave Widner spoke on the SCJ Alliance contract review for the comprehensive plan. He
23 quotes task 18 on page 28 of the contract, "Their job is to avoid unintended incentives
24 to build outside of UGA's (Urban Growth Areas)". He states his concerns regarding the
25 Comp Plan that will be going for the next 20 years that will rely on research performed
26 in 2012. He then moves on to Task 3 on page 15 section 3.1 of the SCJ contract states
27 "They will review the draft block and count the land to pass the analysis," Mr. Widner
28 asked where is the analysis? He states his concern about the property that has a UGA
29 out North of Sunset.

30 **Commissioner Comments**

31 Commissioner Deshmane: Happy New Year. Welcome Frank to the commissioners

32 **Approval of Meeting Minutes**

33 **Timestamp: 6:43p**

34 **1 Commissioner Van Dalen moved** to approve the meeting minutes from December
35 14th, 2023.

36 **Commissioner Deshmane seconded.**

37 **Roll Call Vote: Ayes-Barton, Dahlquist, Deshmane, Hansen, Mocerri, Van Dalen;**
38 **Abstain-James; (Ayes-6; Nays-0; Abstain-1). The motion carried.**



**RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION
January 25, 2024**

Public Hearing and Work Session

2

- 1 **Topic Title:** Proposed Amendment to WCC 20.40.150 (Agriculture
2 District) to allow Propane Distribution in Agriculture as a conditional use
3 **Timestamp:** 6:44p
- 4 Lucas Clark from Whatcom County Planning and Development Services provided a
5 presentation on the details on the proposed amendment to allow propane distribution in
6 agriculture as a conditional use. Mr. Clark mentions that on October 10th, 2023, Council
7 amended the comp plan and zoning code docket to include a review of allowing propane
8 sales, reload, storage and distribution facilities as a conditional use in the AG
9 (agriculture) zone. He states that council tasked Planning Development Services to
10 preview the suggested code and provide recommendations. He continues to state that
11 on December 13th 2023, the proposed amendment was presented to the Agricultural
12 Advisory Committee which voted to move the proposal forward to the Planning
13 Commission.
- 14 The key takeaway is that the intention is to protect lands and active agricultural use,
15 and only allow propane distribution on sites that have a compatible preexisting
16 infrastructure through the conditional use permitting (CUP). Mr. Clark continues to
17 explain that CUPs are a rigorous process for any applicant and that any permit for
18 propane distribution will have to fit the nine conditional use criteria and the eight criteria
19 in the proposed code. The application process will then go through a process that
20 includes public notices and public hearings with the hearing examiner before it ultimately
21 gets approved or denied.
- 22 Mr. Clark adds that the proposed amendment is consistent with all of Whatcom County's
23 comprehensive plans, goals and policies. It discourages the conversion of productive
24 agricultural land. The intention, through the permitting process, is to confine propane
25 sales and distribution to the preexisting infrastructure in pervious surfaces.
- 26 He concludes the presentation by explaining the letter that was sent to the
27 commissioners 2 hours prior to the meeting and mentions that PDS is not asking for the
28 Planning Commission to act on this right now and would like time to review the letter.
- 29 Commissioner Deshmane asked, "When did the County Council first act on pursuing this
30 code change and adding it to the docket?"
- 31 Lucas Clark answered, "The council added it to the docket on October 10th, 2023.
- 32 Commissioner Deshmane stated that it seems pretty fast for this to come to Planning
33 Commission. He then asked what the urgency is around this particular project and if
34 there is anything relevant to talk about from the history of propane distribution terminals
35 and where are they located currently in Whatcom County.
- 36 Commissioner Barton welcomed a public attendee, Denver Vanderyacht to answer the
37 question. He states that the proposal is to focus on residential AG community.
- 38 Commissioner Hansen reiterates the question as to why this proposal is being brought
39 forward if staff needs to review it further first. Commissioner Hansen then comments on
40 Vanderyacht using the term residential, stating his concerns that this proposal's intended
41 use may displace agriculture.
- 42 Commissioner Barton redirects the conversation back to the public hearing.



**RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION
January 25, 2024**

Public Hearing and Work Session

3

1 Commissioner Van Dalen comments on the letter that was mentioned, stating it does
2 not have effect on the proposal as it speaks on what staff has already presented.

3 **Public Hearing and Work Session Regarding Proposed Amendment to WCC**
4 **20.40.150 (Agriculture District) to allow Propane Distribution in**
5 **Agriculture as a conditional use**

6 **Timestamp: 7:01p**

7 Eddie Ury, the Climate and Energy Policy Manager at Resources, a local Bellingham based
8 nonprofit, provided public comment stating that the proposal raises some concerns in
9 the AG zone and where the propane distribution may be located.

10 Dannon Traxler provided public comment speaking on the letter that was submitted to
11 the Commission before the meeting and speaks on the fact that the AG committee moved
12 to pass this proposal. She recommended the Commissioners approve it and move it
13 forward to County Council.

14 Denver Vanderyacht provided public comment on the specific property their Vanderyacht
15 Propane hopes utilize, which is the old EPO Grain Mill. He states the company is not
16 trying to take over any preexisting AG land. Vanderyacht then states that the AG land
17 that is part of the proposed property will not be touched and can be owned by a farm.
18 He then goes on to mention that the use of the property is to use it as a focal point to
19 reserve gallons to best support the AG community, allowing for less trucks in the county
20 and having the propane be more localized.

21 Elli Harron provided public comment. She explains she is a member of AG committee
22 and she voted "no" on this proposal because there was no information given as to where
23 the propane distribution sites are. She then states that there should not be a code
24 change in the AG community to allow this proposal to pass.

25 **Timestamp: 7:13p**

26 **Propane Distribution Work Session**

27 **Timestamp: 7:13p**

28 Commissioner Deshmane asked, what is the quorum of the AG Committee?

29 Steve Roberge responded that the AG committee requires a majority vote

30 Commissioner Deshmane clarified the quorum for the AG committee. He also spoke on
31 the hearing and components of the proposed amendments. He asked why are the code
32 amendments being proposed so broad as it does not pertain to a particular site?

33 Steve Roberge responded to Commissioner Deshmane that staff are attempting to keep
34 the qualifications narrow.

35 Commissioner Deshmane commented that the proposal is not so narrow and could use
36 revisions.

37 Commissioner James clarified that the AG Committee had a quorum at their meeting

38 Commissioner Mocerri asked about the letter that was sent out late and why staff is
39 wanting to hold off on moving this forward.

40 Steve Roberge responded that the letter had information included that staff has not had
41 adequate time to review and they recommend allowing additional time for analysis.



**RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION
January 25, 2024**

Public Hearing and Work Session

4

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- 1 Commissioner Van Dalen added that the property being proposed on is industrial and it
2 needs to be used as it has been run down for years with graffiti on the walls.
- 3 Commissioner James speaks on fully evaluating the proposal and the letters. He said
4 there is no rush in moving this forward. He states that he is in favor of delaying it
- 5 Commissioner Hansen agrees there is no rush to push this through. Sounds like there is
6 room for good arguments in regards to the location of the propane distribution proposal
- 7 Commissioner James asks, "Can we leave the AG land alone and just use the industrial
8 land of the property?"
- 9 Steve Roberge responds to Commissioner James that it is part of the intended code seen
10 in item 1 of the proposal under the uses stating, "The use shall not result in the
11 conversion of Agricultural Lands of Long-Term Commercial Significance or land in active
12 agricultural use."
- 13 Commissioner James asks if the land is agricultural land
- 14 Steve Roberge responds to Commissioner James that propane under this code would not
15 be allowed to infer fairly used agricultural land
- 16 Commissioner James reiterates the question, "Is there a way to not use the AG land, as
17 it seems to directly violate it."
- 18 Steve Roberge responds that the only part that would be allowed for use, is the non-
19 agricultural land of the property. He states that this provision would not allow the
20 company to further convert any part of the land that is within the AG zone
- 21 Commissioner Barton asks How can a proposal come to commission so fast, how does
22 this process work?
- 23 Steve Roberge responds that the Council is who put this on the docket. Usually there is
24 an application process, but Council sent this one to the docket.
- 25 Commissioner Deshmane reiterates that rezones from the proposal can be more specific.
26 He states that he wants staff to look at this with the current code changes and how can
27 it be specific to this project.
- 28 Commissioner Mocerri states that the commissioners are not changing code, so why is
29 this being proposed tonight.
- 30 Steve Roberge responds that this proposal is intended to avoid spot zoning.
- 31 Commissioner Hansen reiterates the ordinance zones covers three other zones.
- 32 Chairman Barton states, if your hand is not raised and not called on, do not speak.
- 33 Commissioner Deshmane stated that spot zoning is not good, but if there are exceptions
34 made for specific locations like Cherry Point, does that violate the original intent of the
35 code.
- 36 Commissioner Van Dalen asked staff about the packet given about section 2. Why are
37 we doing this if it has already been approved by County Council.
- 38 Steve Roberge responded that Council approved inclusion of this proposal on the docket
- 39 Commissioner Barton speaks on the proposed action to delay this to the next meeting.
- 40
- 41



**RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION
January 25, 2024**

Public Hearing and Work Session

5

1 **Timestamp: 7:45p**

2 **2Commissioner James moved** to delay the decision to the future meeting by staff

3 **Commissioner Deshmane seconded.**

4 **Roll Call Vote: Ayes-Deshmane, Hansen, James**

5 **Nays- Mocerri, Barton, Dahlquist, Van Dalen; (Ayes-3; Nays-4; Abstain-0). The**
6 **motion fails.**

7 **Timestamp: 7:46p**

8 **3Commissioner Mocerri moved** to move proposal forward to County Council

9 **Commissioner Van Dalen seconded.**

10 Commissioner Hansen: calls on Eddie Ury to speak on this proposal more

11 Public attendee Eddie Ury stated that what is being presented here is vague, undefined
12 terms with no boundaries. There are opportunities here to take a closer look on this
13 project and how it can further benefit appropriate conditions.

14 **Roll Call Vote: Ayes- Barton, Dahlquist, Deshmane, Mocerri,**

15 **Nays- Van Dalen**

16 **Abstain- Hansen, James (Ayes-4; Nays-2; Abstain-1). The motion fails.**

17 **Timestamp: 7:51p**

18 **4Commissioner Deshmane moved** for staff to do some additional work and come
19 back at a later meeting in February

20 **Commissioner Dalquist seconded.**

21 **Roll Call Vote: Ayes-Barton, Dahlquist, Deshmane, Mocerri**

22 **Nays- Van Dalen**

23 **Abstain- James, Hansen (Ayes-4; Nays-1; Abstain-2). The motion carried.**

24 **Timestamp: 7:54p**

25 Commissioner Hansen mentions that he had contact with executive board twice about
26 the schools, advising them of school impact fees as per the 2007 ordinance.

27 **Adjournment**

28 **Timestamp: 7:57p**

29 The meeting was adjourned at **7:57 p.m.**

30 Minutes prepared by Aileen Kogut-Aguon.

31 WHATCOM COUNTY PLANNING COMMISSION ATTEST:

32

33 _____
Kelvin Barton, Chair

Aileen Kogut-Aguon, Coordinator



**RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION
February 08, 2024**

Annual Business Meeting

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, Daniel Dahlquist, Atul Deshmane, Jim Hansen, Stephen
6 Jackson, Dominic Mocerri, Scott Van Dalen

7 Frank James: arrived at 6:36p

8 **Absent:** Julie Jefferson

9 **Staff Present:** Steve Roberge, Kelly Chamberlain, Becky Boxx and Aileen Kogut-
10 Aguon

11 **Department Update**

12 Steve Roberge, Assistant Director of Planning and Development Services (PDS), gave
13 an update on the new staff members at PDS and a couple of new positions that are
14 currently in the works.

15 Mr. Roberge said the items that will be discussed within the next six months will
16 include the Propane in the AG (Agriculture area), the Capital Improvement Plan (CIP),
17 the Comprehensive Plan, Public Participation Plan (population, employment and
18 housing allocations), and the Land Policy Analysis Methodology.

19 Commissioner Mocerri asked how does the analysis discussion compare to what was
20 reviewed in last year's meeting regarding Buildable Lands.

21 Mr. Roberge explained that the Land Policy Analysis will look at what was planned, the
22 growth from that plan, how successful was it and where to go from there. He then
23 explained how the analysis will tie into the Comprehensive plan as the market changes
24 and how to adjust to that change.

25 **Open Session Public Comment**

26 **Timestamp: 00:11:00**

27 Bryan Vanderyacht from Vanderyacht Propane explained that the goal for their
28 company is to improve a piece of property that is run down, and bring in product safer
29 into rural areas and have less trucks on the road. He then addressed comments that
30 the proposal moved through channels unusually quickly, stating that the project has
31 been ongoing since August of 2023 and hopes to move forward with the project, given
32 the information the proponents have been gathering, and bring to the Commissioners
33 in the upcoming meeting.

34 Dave Widner provided information about the Sunset Drive property he spoke on at the
35 previous Planning Commission meeting. He explained that it was his property and that
36 his daughter wants to subdivide the property but they were told that subdivision is not
37 possible because of their zoning. Mr. Widner stated he wants to subdivide and open
38 opportunities on the property such as building a low-income duplex or development
39 relating to energy creation.



RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION
February 08, 2024

Annual Business Meeting

2

1 **Commissioner Comments**

2 Commissioner Deshmane stated that he visited the Vanderyacht site with Eddie Ury,
3 the Climate and Energy Policy Manager at Resources, and reached out to Steve
4 Roberge and Vanderyacht. He provided them with some ideas for very minor
5 modifications to the code amendments.

6 **Approval of Meeting Minutes**

7 **Timestamp: 00:20:28**

8 Commissioner Mocerri mentioned that some items in the minutes were incorrect and
9 should be revised. The roll call for the motions included commissioners that were not in
10 attendance, and the parenthesized vote counts did not clearly indicate how the votes
11 were cast (ayes, nays, abstain).

12 Commission Chair Barton stated that the minutes will be reviewed at the next meeting
13 with the revisions and no approval will be given at this time.

14 **Chair and Vice Chair Election**

15 **Timestamp: 00:24:32**

16 **1Commissioner Mocerri moved** to nominate Commissioner Kelvin Barton as
17 Commission Chair for 2024.

18 **Commissioner Van Dalen seconded.**

19 **Roll Call Vote:**

20 **Ayes-Barton, Dahlquist, Deshmane, Hansen, Jackson, James, Mocerri, Van**
21 **Dalen; (Ayes-8; Nays-0; Abstain-0). The motion carried.**

22

23 **2Commissioner Deshmane moved** to nominate Commissioner Dominic Mocerri as
24 Commission Vice Chair for 2024

25 **Commissioner Jackson seconded.**

26 **Roll Call Vote:**

27 **Ayes-Barton, Dahlquist, Deshmane, Hansen, Jackson, James, Van Dalen;**
28 **Abstain- Mocerri (Ayes-7; Nays-0; Abstain-1). The motion carried.**

29

30 **Review of 2024 Business Rules**

31 **Timestamp: 00:27:47**

32 Mr. Roberge opened the Business Rules discussion on voting rules and what types of
33 votes require 5 votes (majority of the Commission) and what types of votes only
34 require a simple majority.

35 Becky Boxx, PDS Coordinator stated that anything that does not require official control
36 like changing code or law, does not require a majority vote of the commissioners.



**RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION
February 08, 2024**

Annual Business Meeting

3

1 Mr. Roberge continued the business rules review with notes regarding the agenda
2 packets and proposed that printed packets will only be provided upon request of the
3 Commissioners; otherwise packets will be emailed to Commissioners as a PDF file only.
4 He stated the goal is to move forward with electronic agenda packets and print less
5 paper.

6 Commissioner Deshmane proposed that in section 1.2 of the business rules, be
7 modified to switch the points to reflect how often the commission meets and have staff
8 schedule the meetings.

9 **Timestamp: 00:35:18**

10 **3Commissioner Deshmane moved** to modify section 1.2 "Regular Meetings" to be
11 A.) In accordance with the priorities of the Planning Department and the County Council,
12 Planning Department staff shall set agendas and schedule meetings for the planning
13 Commission and B.) The Planning Commission typically meets twice a month on the
14 second and fourth Thursday of every month except in August, November, December,
15 where the Planning Commission meets once a month; and shall provide for additional
16 meetings.

17 **Commissioner Van Dalen seconded.**

18 **Roll Call Vote:**

19 **Ayes-Barton, Dahlquist, Deshmane, Hansen, Jackson, James, Mocerri, Van**
20 **Dalen; (Ayes-8; Nays-0; Abstain-0). The motion carried.**

21 **Timestamp: 00:39:58**

22 **4Commissioner Deshmane moved** to approve the business rules as amended for
23 2024

24 **Commissioner Hansen seconded.**

25 **Roll Call Vote:**

26 **Ayes-Barton, Dahlquist, Deshmane, Hansen, Jackson, James, Mocerri, Van**
27 **Dalen; (Ayes-8; Nays-0; Abstain-0). The motion carried.**

28 **Timestamp: 00:40:57**

29 **Docket and 2023 Achievements**

30 Mr. Roberge spoke on the 2023 docket and achievements the Planning Commission
31 have accomplished such as, the start of the 2025 Comp Plan, Zoning Code density and
32 lot size amendments, heavy impact in industrial zones and Propane in the AG Zone.

33 Commissioner Deshmane asked how can the Commissioners prepare for the upcoming
34 docket for the year, and what resources are there to get prepared.

35 Mr. Roberge provided some ideas including short courses from the Washington State
36 Department of Commerce website.

37 Commissioner Hansen asked if the Commissioners will be reviewing proposals to
38 expand the mineral resource lands.

39 Mr. Roberge responded that it will be reviewed through the Comprehensive Plan.



**RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION
February 08, 2024**

Annual Business Meeting

4

1 Commissioner Hansen then stated that mineral extraction on properties are causing
2 residents to be unhappy and several are protesting the extraction. He expands on this
3 by saying that the idea of mineral resources locally, based on property ownership of
4 parties that could benefit from that change does not seem like good planning.

5 **Comp Plan Update**

6 Mr. Roberge gave an update on the upcoming meetings to possibly present to the
7 commission such as Public Participation Plan, Population, Employment and Housing
8 Projections and Allocations, continuing the Land Capacity Analysis Methodology and
9 adding a climate chapter to the plan.
10

11 **Adjournment**

12 **Timestamp: 01:06:17**

13 The meeting was adjourned at 7:37 p.m.

14 Minutes prepared by Aileen Kogut-Aguon.

15 WHATCOM COUNTY PLANNING COMMISSION ATTEST:

16 _____
17 Kelvin Barton, Chair

Aileen Kogut-Aguon, Secretary



Memorandum

DATE: February 16, 2024
TO: Planning Commission
FROM: Lucas Clark, Planner I
THROUGH: Steve Roberge, Assistant Director
RE: Proposed Amendment to WCC 20.40.150 (Agriculture District) to allow Propane Distribution in Agriculture as a Conditional Use

Purpose

On January 25th, 2024, the Planning Commission held a duly noticed public hearing to consider the proposed amendment. The Planning Commission moved for staff to do some additional work and come back at a later meeting. The motion passed.

Representatives of the propane industry and a representative from RE Sources worked together to address the areas of concern that were raised during the public hearing. The revised code amendment has removed one redundant condition (previous condition 7, Exhibit B) and added four new conditions (Exhibit A, conditions 8-11) and two new definitions, Propane Retail and Distribution Facility and Propane Intracompany Transport. PDS reviewed the updated code, made minor amendments for clarification, and it is provided for your review as Exhibit A. (Exhibit B is the draft Code reviewed and discussed at the January 25, Planning Commission meeting and is provided for your reference.)

Findings of Fact

It is recommended the Planning Commission recommends the following findings of fact and reasons to the County Council for action:

1. Council amended Resolution 2023-005 to docket an additional Comprehensive Plan/zoning amendment, "Amend Whatcom County Code 20.40.150, Agriculture (AG) District, to allow propane reload, storage, and distribution facilities in the Agriculture Zone as a conditional use under certain circumstances," as there was interest in modifying the regulations to allow commercial and retail propane sales in Ag.
2. There is not a specific propane distribution facility use identified within Whatcom County code. The county has interpreted code to allow propane distribution facilities in Light Impact Industrial (LII) District, 20.68 Heavy Impact Industrial (HII) District, and 20.68 Rural Industrial and Manufacturing (RIM) District through a similar use determination.
3. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on 11/22/23. No comments were received.
4. Notice of the subject amendment was submitted to the Washington State Department of Commerce on 12/4/23 for their 60-day review.
5. The Agricultural Committee reviewed the proposed amendment at a public meeting on December 13th, 2023, and recommended the Planning Commission forward the proposed amendment to the County Council with a recommendation of approval.

6. On January 25th, 2024, the Planning Commission held a duly noticed public hearing to consider the proposed amendment. The Planning Commission moved for staff to do some additional work and come back at a later meeting. The motion passed.
7. On February 14, 2024, on February 14th, PDS met with representatives from VanderYacht Propane, Northwest Propane, and RE Sources.
8. The amendments are in the public interest.
9. The amendments are consistent with the Whatcom County Comprehensive Plan.

Recommendation

Planning and Development Services recommends that the Planning Commission forward the proposed amendments to the County Council with a recommendation of approval.

Attachments

1. Exhibit A – New Proposed Code Amendments.
2. Exhibit B – January 25th, 2024 Proposed Code Amendments.

EXHIBIT A

Chapter 20.40 AGRICULTURE (AG) DISTRICT

20.40.150 Conditional uses.

(...)

.198 Propane Retail and Distribution Facilities, provided all of the following criteria are met:

- (1) The use shall not result in the conversion of Agricultural Lands of Long-Term Commercial Significance or land in active agricultural use.
- (2) The use shall be located, designed, and operated so as not to interfere with the overall agricultural character of the area.
- (3) The facility's size, scale, and character shall be compatible with the agricultural/rural character of the surrounding area.
- (4) To the extent practicable, a facility shall only be permitted within existing buildings and on hard surfaces, although said buildings may be improved as permitted by applicable codes.
- (5) The use shall only be allowed to expand into pervious surfaces when said expansion will have minimal impact on the agricultural land base and any current agricultural use.
- (6) The proposal will not preclude the property's present or future agricultural uses or substantially detract from on-site agricultural production.
- (7) The proposal will not adversely impact or interfere with accepted farm practices on adjacent or nearby agricultural operations.
- (8) The proposal complies with all applicable local, state, and federal laws. Applicable County Code includes but is not limited to SEPA (WCC 16.08), Conditional Use Permit criteria (WCC 22.05.026), and Proof of Insurance (WCC22.05.125).
- (9) New or modified equipment and any vehicles loaded at the proposal site will be used only for the purposes of Propane Retail and Distribution Facilities for direct sale distribution to end users of propane or Intracompany Transport for direct sale distribution of propane to end users of propane.
- (10) Propane distribution facilities shall follow applicable recommendations of the U.S. Chemical Safety and Hazard Investigation Board (CSB).
- (11) Future modification or expansion of a proposal permitted under this section shall be conditioned that the permitted equipment shall only be used in the manner approved in the permit.

Chapter 20.66
LIGHT IMPACT INDUSTRIAL (LII) DISTRICT

20.66.050 Permitted uses.

(...)

.097 Propane Retail and Distribution Facility.

Chapter 20.68
HEAVY IMPACT INDUSTRIAL (HII) DISTRICT

20.68.050 Permitted uses.

(...)

.110 Propane Retail and Distribution Facility.

Chapter 20.69
RURAL INDUSTRIAL AND MANUFACTURING (RIM) DISTRICT

20.69.050 Permitted uses.

(...)

.056 Propane Retail and Distribution Facility.

Chapter 20.69
Definitions

20.97.160 “P” definitions.

Propane Retail and Distribution Facility. “Propane Retail and Distribution Facility” means a complex that will receive, store and distribute propane directly to an end user.

Propane Intracompany Transport. “Propane Intracompany Transport” means the movement of propane from one Propane Retail and Distribution facility receiving point to another Propane Retail and Distribution facility within a company’s network of wholly-owned facilities.

EXHIBIT B

Chapter 20.40 AGRICULTURE (AG) DISTRICT

20.40.150 Conditional uses.

(...)

.198 Propane retail, reload, storage, and distribution facilities, provided all of the following criteria are met:

- (1) The use shall not result in the conversion of Agricultural Lands of Long-Term Commercial Significance or land in active agricultural use.
- (2) The use shall be located, designed, and operated so as not to interfere with the overall agricultural character of the area.
- (3) The facility's size, scale, and character shall be compatible with the agricultural/rural character of the surrounding area.
- (4) To the extent practicable, a facility shall only be permitted within existing buildings and on hard surfaces, although said buildings may be improved as permitted by applicable codes.
- (5) The use shall only be allowed to expand into pervious surfaces when said expansion will have minimal impact on the agricultural land base and any current agricultural use.
- (6) The proposal will not preclude the property's present or future agricultural uses or substantially detract from on-site agricultural production.
- (7) The proposal will not preclude the property's present and future agricultural uses or substantially detract from on-site agricultural production in the area.
- (8) The proposal will not adversely impact or interfere with accepted farm practices on adjacent or nearby agricultural operations.



January 25, 2024

Whatcom County Planning Commission
5280 Northwest Drive
Bellingham, WA 98226

Dear Planning Commissioners:

Subject: Rebuttal Comments to Future-wise opposing the proposed amendments to Whatcom County Code (WCC) 20.40.150

VanderYacht Propane and Northwest Propane are two fourth generation Whatcom County propane companies that have been involved in this County for generations and are working together to create a facility, which is not a “retail propane facility” as implied by Future-wise when they use non-specific descriptions, to safeguard supply in Whatcom County for the benefit of the Ag Community as a whole. Agriculture is as important to us, as community members and business owners, as it is to any County department, farm owner or agricultural activist group. As owners who have been raised in Whatcom County, raised families, whose families are now raising future generations of Whatcom Countians, we researched and documented many of the connections propane and agricultural maintain. While the farming industry would survive without propane it would be a significant hardship to make that transition. In what is known as the Soccer Fields decision, the Washington Supreme Court held that “[i]n order to constitute an innovative zoning technique [authorized by RCW 36.70A.177] consistent with the overall meaning of the Act, a development regulation must satisfy the Act’s mandate to conserve agricultural lands for the maintenance and enhancement of the agricultural industry.” King County v. Central Puget Sound Growth Management Hearings Bd., 142 Wash.2d 543, 560, 14 P.3d 133, 142 (2000). Propane significantly enhances the agricultural industry and allows all types of agricultural industries to prosper and maintain their status in the community. Combined with the restrictions of existing structures and impervious surfaces, the definitions of Future wise, in their own letter opposing the amendment, justify the intent of this text amendment. It is necessary to note that the facts in all of the cases cited in Future-wise’s letter are significantly distinguishable from our proposal, because in those cases, there were no protections built in to protect agricultural lands, and the uses proposed (such as athletic playing fields) would necessarily take up large swaths of agricultural lands. Future-wise provided no on-point caselaw consistent with the facts of our proposal that would make our proposal “illegal” as Future-wise claims, and for them to make such a claim is profoundly disingenuous and a misrepresentation of what is being proposed. It ignores the fact that we have built in significant protections of agricultural lands to ensure that what happened in those cases cannot and will not happen as a result of our proposed use.

While I respect and support the efforts of Future wise, it seems to me that this letter is more of a form type letter broadly opposing any and everything using summary statements and generalities to aim it towards this proposal, rather than researching the connection between propane and agriculture and

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detailing specific activities proposed and how they might conflict with the intent of the zoning and preservation of farmland. Had Future-wise spent time doing research, the connection and partnership between propane and agriculture would have been apparent and they would have needed to be more creative to find some reasoning, or fine point, that probably would be removed from the intent of The American Farmland Trust, Whatcom County, and this Country. Specifically, implying that this amendment would be expanding the allowed uses beyond what we are actually proposing ignores the work that we, and all the local parties involved, have done to ensure that the permitting and conditional use guidelines are targeted to control what type of propane use would be allowed and that productive ag land is strenuously protected. Their focus on large parcels diverts the attention from the limited number of properties that would meet the criteria set forth in our proposed zoning text amendment.

They also did not mention the ability of this type of operation to bring in renewable propane, further showing Whatcom County as a leader in promoting green agricultural support in the State of Washington and beyond.

To summarize, the ability to offload and store propane is done in many agricultural zoned facilities for applications including frost prevention, crop drying, and facility and/or water heating. Chicken farms in Mossyrock and throughout the state, orchards in Eastern and Western Washington, and crop processing facilities all over the country to name a few, all have large storage tanks, and storage tank farms, that trucks and, in certain locations, railcars are offloaded into. In many applications propane is then distributed throughout area farm(s) and processing plants, including for residential needs. A farming community is more than just a barn, orchard, or factory—it is also the surrounding community that supports farming in many ways. This text amendment only expands, ever so slightly, what is already being done all over Washinton State by allowing a smaller Ag District parcel, with already designated impervious surface (we are not paving farmland), to independently, with regulated propane employees using accepted safety measures and practices and accompanied by stringent protections for land in active agriculture, offload and distribute propane to the surrounding Ag community.

Thank you for considering our rebuttal to Future-wise's letter of opposition. If you would like me to further elaborate on any of the points noted above, please feel free to reach out to me at byacht@hotmail.com or come by our office any time.

Sincerely,

Bryan VanderYacht
Owner, CEO
VanderYacht Propane, Inc

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Whatcom County Planning Commission

Re: 5996 Lawrence Road Everson, Wa.

To whom it may concern,

I am the real estate broker that represented the buyers in the purchase of 5996 Lawrence Road in Everson. This property is just under 7 acres with old, dilapidated feed buildings and storage bins located on the property. There are about 2 acres that could be used for pastureland or harvesting of crops. When the property was first listed my fellow Windermere brokers were excited to present this parcel to their potential buyers due to the fact there is a rail spur connected to the property. When it was discovered the property was zoned agriculture the air went out of the balloon. Vacant AG land has a value between \$15,000 and \$30,000 per acre depending on water rights etc. This would put the value around the \$210,000 range. The only legitimate usage for this parcel due to the AG zoning would be another feed mill but even then, a new feed mill company would need to tear down the existing structures and replace them with new buildings and storage bins. The property is located away from any town therefore any AG-related business such as an implement dealer, lawn and garden store or a fruit and vegetable store would not want to be this isolated. Also, they would not want to pay the asking price of \$1,000,000.

Once again, the value of the property is due to the railway spur therefore this property should have never been zoned agriculture in my opinion.

Best regards,


Duane VanderYacht/Broker

Windermere Real Estate/Whatcom, Inc.

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