

**WHATCOM COUNTY
PLANNING & DEVELOPMENT SERVICES**

**Density Credit / Lot Size
Zoning Code Amendments**

PROPOSED FINDINGS OF FACT AND REASONS FOR ACTION

Background Information

1. The subject proposal consists of the following amendments to the Official Whatcom County Zoning Ordinance (Title 20):
 - a. Amending the Density Credits Chapter;
 - b. Amending the Urban Residential 4 dwellings/acre (UR4) zone in the Birch Bay UGA to allow increased density if density credits are purchased;
 - c. Amending the minimum lot size, width, depth and other requirements in the Urban Residential zone; and
 - d. Amending the accessory dwelling unit regulations to allow larger unit size if density credits are purchased.
2. A Determination of Non-Significance was issued by the SEPA Responsible Official on May 28, 2021.
3. Notice of the Planning Commission hearing for the subject amendments was published in the Bellingham Herald on June 25, 2021.
4. Notice of the Planning Commission hearing for the subject amendments was posted on the County website on June 25, 2021.
5. Notice of the Planning Commission hearing was sent to the County's e-mail list on June 25, 2021.
6. The Planning Commission held a public hearing on the subject amendments on July 8, 2021.
7. In order to approve an amendment to the development regulations, the County must find that the amendment is consistent with the comprehensive plan (WCC 22.10.060(2)).

8. The Whatcom County Council adopted Policy 2A-14 in the Comprehensive Plan in the 2016 update which included convening a multi-stakeholder work group, including the Cities, to examine a variety of transfer of development right (TDR) and purchase of development right (PDR) issues.
9. The County Executive appointed the Whatcom County TDR/PDR Multi-Stakeholder Work Group in February 2017.
10. The *Whatcom County TDR/PDR Multi-Stakeholder Work Group Final Report* was issued on October 3, 2018. This report included a number of recommendations, including expanding the density credit program to the UR4 zone in Birch Bay Urban Growth Area and accessory dwelling units.

Urban Growth

11. The Growth Management Act states “Each county . . . shall designate an urban growth area or areas within which urban growth shall be encouraged and outside of which growth can occur only if it is not urban in nature. . .” (RCW 36.70A.110(1)).
12. The Growth Management Act states “A comprehensive plan should provide for innovative land use management techniques, including, but not limited to, density bonuses, cluster housing, planned unit developments, and the transfer of development rights” (RCW 36.70A.090). The Whatcom County Comprehensive Plan is in the process of being amended to include density credit language.
13. Density credits allow development incentives, such as increased density or more floor area, in exchange for a voluntary contribution towards preserving resource lands and open space. This is accomplished through a voluntary payment of funds to the County for use in the Whatcom County Conservation Easement Program (WCC 3.25A), which was formerly known as the Purchase of Development Rights Program, in order to access incentives specifically set forth in the zoning code.
14. The *Whatcom County TDR/PDR Multi-Stakeholder Work Group Final Report* (October 3, 2018) indicated:

. . . In November 2017, the County Council adopted a density credit program for the Resort Commercial zone in the Birch Bay UGA and should consider expanding this program to other areas in the UGA. Specifically, the lower density Urban Residential four dwellings/acre . . . zones in the Birch Bay UGA should be considered for increased density through the proposed density credit program. . . (p. 33).

15. The subject amendments include density bonus provisions in the UR4 zone within the Birch Bay urban growth area (UGA) if density credits are purchased.
16. The subject amendments also modify the minimum lot size, width, depth and other requirements in the Urban Residential zone
17. Whatcom County Comprehensive Plan policies relating to urban growth include:
 - Policy 2A-1: Concentrate urban levels of development within designated urban growth areas.
 - Policy 3C-6: In UGAs, consider easing lot consolidation criteria, increasing density, and decreasing minimum lot sizes, in the interest of serving housing affordability.
 - Policy 3G-4: Allow development of smaller lots and creative options.
18. The State Department of Commerce *Housing Memorandum: Issues Affecting Housing Availability and Affordability* (June 2019) identifies “Reasonable Measures as Tools for Increasing Housing Availability and Affordability” including:
 - Allow or require small lots (5,000 square feet or less) for single-family neighborhoods within UGAs. Small lots limit sprawl, contribute to the more efficient use of land, and promote densities that can support transit. Small lots also provide expanded housing ownership opportunities to broader income ranges and provide additional variety to available housing types (p. 116).
19. The subject amendments further the goals and policies of the Whatcom County Comprehensive Plan by concentrating urban levels of growth in UGAs, allowing increased density, allowing smaller lots, and providing creative options for developers in a UGA.

Accessory Dwelling Units (ADU)

20. Accessory dwelling units are allowed in a number of zoning districts, both within UGAs and outside UGAs.
21. The *Whatcom County TDR/PDR Multi-Stakeholder Work Group Final Report* (October 3, 2018) recommended accessory dwelling unit incentives if density credits are acquired. Specifically, the Final Report stated:

. . . Accessory dwelling units are currently limited to 1,248 square feet. . . The TDR/PDR Work Group recommends increasing the size

limit by 500 square feet to a maximum of 1,748 square feet if density credits are purchased. It is recommended that the price should be \$8/square foot up to the 500 square foot maximum. The Work Group recommends that this rural incentive should be available anywhere that accessory dwelling units are allowed in the County. . . (p. 34).

22. Whatcom County Comprehensive Plan goals and policies relating to development in rural and agricultural areas include:

Goal 2DD: Retain the character and lifestyle of rural Whatcom County.

Goal 8A: Conserve and enhance Whatcom County's agricultural land base for the continued production of food and fiber.

Policy 8A-2: Maintain a working agricultural land base sufficient to support a viable local agricultural industry by considering the impacts to farmers and agricultural lands as part of the legislative decision making process. Measures that can be taken to support working farms and maintain the agricultural land base should include:

. . . Maintaining a Purchase of Development Rights (PDR) program that facilitates the removal of development rights from productive farmland and provides permanent protection of those agricultural lands through the use of conservation easements or other legal mechanisms. . .

23. The Whatcom County Comprehensive Plan seeks to retain rural character and conserve agricultural lands. These goals and policies are primarily implemented through the Whatcom County Zoning Code, which restricts the uses and densities allowed in rural and agricultural areas. However, the County also adopted the Whatcom County Conservation Easement Program (WCC 3.25A). The purpose of this program is:

To establish a voluntary agricultural, forestry, and ecological conservation easement program for Whatcom County which will enhance the protection of the county's farmland, forestland, and important ecosystem areas, enhance the long-term viability of the agricultural and forestry enterprises within the county and provide public benefit by retaining properties in permanent resource use, in addition to the protection of ecosystem functions and values (WCC 3.25A.020).

24. The rural zones already allow accessory dwelling units and the subject amendments allow increased size of these units. However, the subject amendments compensate for this increased size by requiring a contribution to the Whatcom County Conservation Easement Program.

25. The subject amendments further the goals and policies of the Whatcom County Comprehensive Plan by providing developer incentives to voluntarily contribute funds that would be utilized in the Whatcom County Conservation Easement Program, thereby preserving rural character and agricultural lands.

Incentives

26. Whatcom County Comprehensive Plan policies relating to incentives include:

Policy 2F-3: Revise regulations to include incentive programs.

Policy 2F-4: Review and adopt, where appropriate, incentive programs such as cluster density bonuses in urban growth areas, purchase of development rights, transfer of development rights, and tax deferrals.

Policy 2UU-4: Support the retention of open space and open space corridors through the use of education and incentives, such as purchase or transfer of development rights, density bonuses within UGAs, cluster development, and acquisition of easements.

Policy 2UU-5: Augment land use regulations by engaging in a proactive program of public investment, landowner incentives, and other actions aimed at preserving open space.

27. The subject amendments provide density bonus provisions, which are entirely optional. A land owner may choose to develop property as currently allowed by the zoning code. Alternatively, a land owner may choose to utilize the density bonus provisions by purchasing density credits.
28. The subject amendments further the goals and policies of the Whatcom County Comprehensive Plan by providing a voluntary incentive that would allow increased density in the Birch Bay UGA and flexibility in the accessory dwelling unit provisions while contributing to preservation of rural and agricultural lands.

PROPOSED CONCLUSION

The subject zoning amendments are consistent with the Whatcom County Comprehensive Plan.

RECOMMENDATION

Based upon the above findings and conclusions, staff recommends approval of the following amendments to the Whatcom County Zoning Code:

Exhibit A, Density Credits Chapter (WCC 20.91).

Exhibit B, Urban Residential District Chapter (WCC 20.20).

Exhibit C, accessory dwelling unit regulations (WCC 20).