

**WHATCOM COUNTY**

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**Mark Personius**  
Director

Memorandum

April 12, 2018

TO: The Whatcom County Planning Commission  
FROM: Matt Aamot, Senior Planner *WA*  
THROUGH: Mark Personius, Director *MP*  
RE: Point Roberts and Wisner Lake LAMIRD Requirements (PLN2018-00007)

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The Growth Management Act (GMA) authorizes counties to allow "limited areas of more intensive rural development" (LAMIRDs) in the rural element of a comprehensive plan. However, the GMA states "Any development or redevelopment in terms of building size, scale, use, or intensity shall be consistent with the character of the existing areas. . ." (RCW 36.70A.070(5)(d)(i)(C)). An existing LAMIRD area or existing use is one that was in existence on July 1, 1990.

The Whatcom County Council adopted a new section in the Zoning Code (WCC 20.80.100) entitled "LAMIRD Requirements" in 2012 (amended in 2015). This new Zone Code section implemented the GMA requirement that new uses within LAMIRDs must be consistent with the building sizes that existed in 1990. Specifically, this code section sets maximum individual building sizes and maximum sizes for all buildings on a given site within the Rural Community LAMIRD designation.

During the LAMIRD review process, the Planning and Development Services Department assembled a document entitled *Whatcom County Rural Element Update LAMIRD Report*" (2012, updated 2013). This LAMIRD report included Appendix F entitled "1990 Commercial and Public Uses." Appendix F is a table showing the commercial, industrial, and public uses existing in 1990 within LAMIRDS, including the Point Roberts and Wisner Lake LAMIRDS.

The LAMIRD report formed the basis for the square footage limits in WCC 20.80.100(1). For example, the LAMIRD report identified that the largest "storage/warehouse" use existing in Point Roberts in 1990 was 3,286 square feet. Therefore, this maximum size for new storage/warehouse uses in Point Roberts was inserted into WCC 20.80.100(1) to achieve consistency with the GMA. Assembling the LAMIRD report was a large task and the report took, by necessity, a somewhat broad-brush approach to defining the square footage allowed in each land use

category. Therefore, WCC 20.80.100(1) may be amended to reflect more specific information that becomes available on uses that existed in 1990.

Recently, it was brought to the attention of the County's Long Range Planning staff that more specific information was available for the Point Roberts LAMIRD and the Wiser Lake LAMIRD. Based upon review of this information, staff is proposing the following changes to WCC 20.80.100(1):

- *Point Roberts LAMIRD Requirements* - Allow "Auto/Equipment Repair," where permitted by the underlying zoning classification, and set maximum building sizes for this use; and
- *Wiser Lake LAMIRD Requirements* - Allow "Manufacturing/Fabrication," where permitted by the underlying zoning classification, and set maximum building sizes for this use. Reduce the maximum building sizes for the "Storage/Warehouse" uses.

Thank you for your review and consideration of the proposed code changes, which are intended to more closely reflect conditions in 1990. We look forward to discussing the changes with you.

**WHATCOM COUNTY  
PLANNING & DEVELOPMENT SERVICES**

**Point Roberts and Wiser Lake  
LAMIRD Requirements**

**PROPOSED FINDINGS OF FACT AND REASONS FOR ACTION**

**Background Information**

1. The subject proposal amends the Whatcom County Zoning Code (Title 20) by:
  - a. Modifying the Point Roberts LAMIRD requirements (WCC 20.80.100(1)) to allow "Auto/Equipment Repair," where permitted by the underlying zoning classification, and set maximum building sizes for this use; and
  - b. Modifying the Wiser Lake LAMIRD requirements (WCC 20.80.100(1)) to allow "Manufacturing/Fabrication," where permitted by the underlying zoning classification, and set maximum building sizes for this use, and reduce the maximum building sizes for "Storage/Warehouse" uses.
2. A Determination of Non-Significance was issued by the SEPA Responsible Official on April 10, 2018.
3. The Planning Commission held a public hearing on the subject amendments on April 26, 2018.
4. Pursuant to WCC 20.90.050, proposed zoning code amendments are evaluated for consistency with the Whatcom County Comprehensive Plan.

**Growth Management Act**

5. The Growth Management Act authorizes counties to allow "limited areas of more intensive rural development" (LAMIRDs) in the rural element of a comprehensive plan (RCW 36.70A.070(5)(d)).
6. The Growth Management Act states, with regard to LAMIRDs, "Any development or redevelopment in terms of building size, scale, use, or intensity shall be consistent with the character of the existing areas. . ." (RCW 36.70A.070(5)(d)(i)(C)). An existing area or existing use is one that was in existence on July 1, 1990 (RCW 36.70A.070(5)(d)(v)(A)).

### **Whatcom County Comprehensive Plan**

7. The Whatcom County Comprehensive Plan map designates the Point Roberts LAMIRD as a Rural Community.
8. The Whatcom County Comprehensive Plan map designates the Wiser Lake LAMIRD as a Rural Community.
9. Whatcom County Comprehensive Plan policies include:

Policy 2JJ-1: Areas designated as Rural Communities shall meet the criteria stated in this chapter and the requirements of RCW 36.70A.070(5)(d)(i), which describes limited areas of more intensive rural development consisting of the infill, development, or redevelopment of existing commercial, industrial, residential, or mixed use areas, including necessary public facilities and public services to serve the limited area.

Policy 2JJ-4: Within the Rural Communities, encourage adequate economic development to provide current and future residents' employment needs, and provide rural residents places to shop, eat, and access to public services.

Policy 2JJ-5: Within Rural Communities development or redevelopment in terms of size, scale, use, or intensity shall be consistent with the character of the area on July 1, 1990.

Policy 2JJ-7: Land uses within Rural Communities, except for industrial uses, should be principally designed to serve the existing and projected rural population.

### **Point Roberts LAMIRD**

10. The Whatcom County Zoning Code's "LAMIRD Requirements" establish maximum floor area per building and maximum combined floor area for all buildings (WCC 20.80.100(1)).
11. The Point Roberts LAMIRD provisions of WCC 20.80.100(1) currently do not specify square footage limitations for "Auto/Equipment Repair" because no such businesses, existing as of 1990, were identified when the LAMIRD Requirements were adopted.
12. Whatcom County issued building permit # 1496 at the Point Roberts Marina in 1981 for a yacht service building (foundation only), which included "boat repair and sales."

13. Whatcom County issued Building Permit # 2444 for "Completion of yacht service bldg" in 1981.
14. Whatcom County issued building permit # 1783 for "Marine Retail Sales & Boat Service Bldg" in 1982.
15. Whatcom County issued building permit # 3987 for interior work on the yacht service building in 1983. Exhibit A of the permit states that approved uses included a boat repair shop. The site plan associated with this permit shows that the yacht repair & service occupied approximately 6,732 square feet (about 4,148 was inside the building and the remaining 2,584 was a covered area attached to the building).
16. The Point Roberts Marina Resort's VP Development e-mailed the County on March 28, 2018, providing three documents:
  - a. A letter from the VP Development stating that the Point Roberts Marina opened in the early 1980s and that there have been five different tenants that have occupied the boat service space since opening.
  - b. A 1982 "License Agreement" allowing a company to use parking spaces at the Point Roberts Marina. The exhibit attached to the 1982 License Agreement shows the parking area, but also shows "Yacht Repair & Service" in a portion of the existing building.
  - c. A 2016 "Commercial Lease" for general boat repair services including engine repairs, painting, structural repairs and modification, and maintenance in approximately 7,000 square feet in the existing building.
17. The automotive and equipment repair category in the Zoning Code may include marine service and repair (i.e. WCC 20.59.054, 20.61.054, and 20.62.051).
18. The boat service and repair business started in the early 1980s and continues on the site today.
19. Since the boat repair business, which may come under the auto/equipment repair category, existed in the Point Roberts LAMIRD in 1990, the use may be inserted in WCC 20.80.100(1).

#### **Wisser Lake LAMIRD**

20. The Whatcom County Zoning Code's "LAMIRD Requirements" establish maximum floor area per building and maximum combined floor area for all buildings (WCC 20.80.100(1)).

21. The Wiser Lake LAMIRD provisions of WCC 20.80.100(1) currently do not specify square footage limitations for "Manufacturing/Fabrication" because no such businesses, existing as of 1990, were identified when the LAMIRD Requirements were adopted.
22. Whatcom County Planning and Development Services issued a "Verification on Nonconforming Use" in 1998 (File # NON98-00002). This Verification was for manufacturing/fabrication uses on Lot 1 of the Scholten Short Plat, 7157 Guide Meridian, which is within the Wiser Lake LAMIRD.
23. An e-mail from Whatcom Land Use Consulting, LLC dated March 23, 2018 states that a total of 6,368 square feet of the buildings on the site was used for manufacturing/fabrication businesses in 1990.
24. Since manufacturing/fabrication use existed in the Wiser Lake LAMIRD in 1990, it may be inserted in WCC 20.80.100(1).
25. However, since the "Manufacturing/Fabrication" square footage existing in 1990 was previously allocated to the "Storage/Warehouse" category in WCC 20.80.100(1), the square footage in the "Storage/Warehouse" category will have to be reduced to reflect the conditions in 1990.

### **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, amending the LAMIRD Requirements of WCC 20.80.100(1).

# Exhibit A

**20.80.100 LAMIRD requirements.**

(1) Building Size in Rural Communities. Within areas designated in the Comprehensive Plan as rural community, which are limited areas of more intensive development as described in RCW 36.70A.070(5)(d)(i), permitted maximum building sizes shall be in accordance with building sizes that existed in each area on July 1, 1990, as shown in the following table.

**Maximum floor area per building, in square feet**

**(Maximum combined floor area for all buildings, in square feet)**

	Retail/Office/Restaurant/ Lodging	Storage/ Warehouse	Auto/ Equipment Repair	Public/ Community	Manufacturing/Fabrication
<b>Acme</b>	2,734 (2,734)		2,070 (2,070)	17,784 (21,896)	
<b>Axton &amp; Guide Meridian</b>	4,800 (4,800)		2,160 (2,160)		
<b>Birch Bay- Lynden &amp; V.V.</b>	2,784 (3,684)				
<b>Cain Lake</b>	2,060 (2,060)			2,473 (4,825)	
<b>Custer</b>	3,968 (3,968)		3,300 (3,300)	46,451 (46,451)	
<b>Deming</b>	11,790 (18,757)	2,400 (2,400)	1,392 (1,392)	30,099 (79,512)	

**Maximum floor area per building, in square feet**

**(Maximum combined floor area for all buildings, in square feet)**

	Retail/Office/Restaurant/ Lodging	Storage/ Warehouse	Auto/ Equipment Repair	Public/ Community	Manufacturing/Fabrication
<b>Diablo</b>	513 (513)			10,872 (10,872)	
<b>Glacier</b>	3,500 (7,888)			3,150 (3,150)	
<b>Hinotes Corner</b>	6,636 (9,036)		1,500 (1,500)	19,856 (19,856)	
<b>Kendall</b>	7,000 (7,000)			3,340 (3,340)	
<b>Laurel</b>	10,700 (11,000)		10,260 (10,260)	21,950 (63,360)	17,670 (23,590)
<b>Lummi Peninsula</b>		7,800 (18,540)			7,280 (7,280)
<b>Maple Falls</b>	8,020 (8,020)	4,620 (4,620)		8,822 (10,082)	
<b>Newhalem</b>	3,218 (3,218)			4,810 (12,981)	16,284 (28,924)
<b>Nugents Corner</b>	18,221 (19,499)			3,240 (3,240)	



**Maximum floor area per building, in square feet**

**(Maximum combined floor area for all buildings, in square feet)**

	Retail/Office/Restaurant/ Lodging	Storage/ Warehouse	Auto/ Equipment Repair	Public/ Community	Manufacturing/Fabrication
<b>Point Roberts</b>	34,704 (34,704)	3,286 (3,286)	<u>6,732</u> <u>(6,732)</u>	11,246 (11,246)	
<b>Pole &amp; Guide Meridian</b>	6,400 (6,400)		4,548 (5,556)	4,000 (4,000)	
<b>Sandy Point</b>				1,428 (1,428)	
<b>Smith &amp; Guide Meridian</b>	5,866 (7,068)	5,900 (5,900)	9,600 (17,100)		22,042 (22,042)
<b>Sudden Valley</b>	6,348 (10,320)			30,140 (44,945)	
<b>Van Wyck</b>	3,480 (3,480)	1,904 (1,904)			
<b>Wiser Lake</b>	24,690 (24,690)	<u>4,854</u> <del>11,222</del> <u>(6,006)</u> <del>(12,374)</del>		2,130 (2,130)	<u>6,368</u> <u>6,368</u>

(2) Within areas designated in the Comprehensive Plan as rural community, a public community facility that serves a predominantly rural area may exceed the maximum floor area and maximum combined floor area given for public/community uses in subsection (1) of this section, subject to a conditional use permit per WCC [20.84.200](#).

(3) Within areas designated in the Comprehensive Plan as rural business, which are limited areas of more intensive development as described in RCW 36.70A.070(5)(d)(iii), new nonresidential uses are subject to a maximum building size of 7,000 square feet, except in the Birch Bay-Lynden/I-5 area where new nonresidential uses are subject to a maximum building size of 12,000 square feet, which is considered "small-scale" relative to existing uses in that area. For buildings in which nonresidential uses existed on July 1, 2012, building size expansion to no greater than 8,000 square feet is permitted, except in the Birch Bay-Lynden/I-5 area, where building size no greater than 20,000 square feet is permitted.

(4) Within a rural business designation, a larger building size for new nonresidential development is permitted if a conditional use permit is granted per WCC 20.84.200. A conditional use permit for a larger building size shall be subject to a finding that:

(a) The larger building size will not cause the need for additional public facilities to be provided in the area;

(b) The proposal is consistent with the Comprehensive Plan policies regarding the rural business designation; and

(c) The proposed small-scale business conforms to the rural character of the area. (Ord. 2015-048 § 1 Exh. A, 2015; Ord. 2012-032 § 2 Exh. B, 2012).