

RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION

1

April 23, 2009

Regular Meeting

1 **Call To Order:** The meeting was called to order, by Whatcom County Planning
2 Commission Chair, Jean Melious, in the Whatcom County Council Chambers at 6:30 p.m.

3
4 **Roll Call:**

5 Present: John Lesow, Sean Wilson, Ken Mann, Jean Melious, Geoff Menzies, John Belisle,
6 David Hunter

7 Absent: Rabel Burdge, John Steensma
8

9 **Staff Present:** David Stalheim, Wain Harrison, Gary Davis, Michelle Stiles, Samya Lutz,
10 Becky Boxx
11

12 **Director's Dialog**

13
14 Stalheim: Regarding the UGA, we met today, with the city planners, and they are
15 supportive of our timeline. The cities are doing their own public process for development
16 of their proposals. Their proposals are due June 1st. The Growth Management Coordinating
17 Council (GMCC) may have some input on those proposals and will hopefully have some
18 input by the middle of June. What we are proposing is a process where the cities have a
19 chance to have their proposals aired in a public forum. We are proposing a joint Planning
20 Commission/County Council meeting on June 18th. We would give a representative from
21 each one of the UGAs the opportunity to present their proposal in front of the Planning
22 Commission and Council. On June 25th we would then have a public hearing so the public
23 can comment on those proposals. The next stage would be that the County develop their
24 proposal during the month of July. The public would then be reviewing that proposal in
25 August and then have a public hearing in September which would be another joint session
26 with the Council.
27

28 Regarding the LAMIRDs, we are hoping to have a draft ordinance by June and have a
29 public hearing on July 9th. The County Council will be deliberating on this in September.
30

31 Menzies: Will the cities' opportunity to have input only be at the county level?
32

33 Stalheim: Yes. There is no formal process that the cities have to follow because it is a
34 County issue. They can formulate their proposal as they choose.
35

36 **Open Session for Public Comment**
37

38 Jack Petree, Whatcom County: The cities would be very surprised to learn that this is just
39 a County issue because they are supposed to play an important part in this.
40

41 Something that should concern you considerably is if you notice the date for the
42 Environmental Impact Statement (EIS) that is supposed to inform the city decisions, it is
43 coming out on May 8th so the cities are being required to give you final decisions on data
44 before the comment period on the EIS is over and long before the final EIS is done.
45

46 I gave you a letter regarding the fact that the Supreme Court has decided that there is no
47 minimum density bright line that the Growth Management Hearings Board (GMHB) can
48 establish, either in rural or urban areas. Any decisions that you make that are based on

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1 some sort of supposed bright line or minimum densities zoning that the GMHB may have
2 decided on is no longer valid.

3
4 Mann: Regarding your comments on the EIS and the quick turnarounds that are due to
5 the County, aren't we sort of out of options on that, seeing that we have to get this thing
6 finished? Do you have a suggestion as to what we could do differently?

7
8 Petree: It's one of those tough situations. 2006 was the time to do it. It's not the current
9 staff's fault. They have to live with the lack of action in the past. I have no suggestions.
10 It's weird to ask the cities to make decisions that will be taken as final before the
11 document that is supposed to inform those decisions is available. I don't know if there is a
12 solution.

13
14 **Commissioner Comments**

15
16 Lesow: I keep abreast of the marketing of Whatcom County and Bellingham to the rest of
17 the world and I am concerned that over the last couple of years that we haven't made the
18 top lists in terms of places people want to live. Last year we didn't make the top 100 list
19 in *Money Magazine* nor did we make the top 25 list in *Business Week* for the best places
20 to retire. It was with considerable interest that when I got my copy of *Newsmax*
21 *Magazine*, which lists the top 25 cities and towns with the best American values, no place
22 in Washington State made the list. One town that made the list is Pleasanton, California,
23 which is a suburb of San Francisco. I was interested in the statement that "although the
24 city has its fair share of McMansions, a cap was put on the number of housing units, in the
25 1990's, to prevent overdevelopment."

26
27 **Work Session**

28
29 **File #CMP2008-00012** - To consider changes to the Rural Element of the Whatcom
30 County Comprehensive Plan and to Whatcom County's development regulations pertaining
31 to land uses and densities in rural areas of the County.

32
33 1. What is rural character?

34
35 Wilson: I'm wondering if the answer to 1. will develop itself as go through the other
36 questions. I suggest we start with 2.

37
38 Mann: You state that 5 acres is considered rural then you go on to say that participants in
39 the update process tend to view 5 acres as the minimum threshold but tend to support
40 mixed uses in the small towns and crossroads communities. Would those small towns and
41 crossroads communities be the LAMIRD areas?

42
43 Davis: Yes.

44
45 Mann: The five acres would then be the non-LAMIRD?

46
47 Davis: Yes.

48

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1 Mann: So what is the question you are asking in 1.?
2

3 Davis: It's to address the issue that there is no set rule for what is rural and what is not
4 rural. There is no bright line that can be set. The County does have discretion in defining
5 what rural character is.
6

7 Lesow: I think that at the end of this discussion we should have some agreement as to
8 what constitutes rural on the basis of acreage.
9

10 **Melious moved that rural character includes 5 acres as a minimum threshold for**
11 **rural lot sizes in rural areas and we support mixed uses in small towns and**
12 **crossroads communities. Lesow seconded.**
13

14 Hunter: I think 1. will work it self out as we go through this so I would rather wait.
15

16 Menzies: I agree.
17

18 **Belisle moved to table the motion. Hunter seconded. The motion carried.**
19

20 2. Which areas are most appropriate for Type I LAMIRD designation?
21

22 o Option A. Designate Type 1 LAMIRDs in as much of the affected area that will
23 meet Growth Management Act out boundary criteria.
24

25 o Option B. Designate Type 1 LAMIRDs in only the affected areas where infill is
26 most appropriate.
27

28 o Option C. Designated no Type I LAMIRDs, allowing no infill.
29

30 Lesow: I took a tally, based on the comments of four entities, staff, Commissioner Mann,
31 Belcher & Swanson and Goldstar. Goldstar did not specifically say which option they
32 favored. Planning recommends Option B, Commissioner Mann recommends Option B,
33 Belcher & Swanson recommends Option A, Goldstar, I presume, is for Option A, and I am
34 for Option C.
35

36 Mann: What is your logic behind Option C?
37

38 Lesow: Whatever we decide is going on to the County Council and there will be a political
39 decision made by them. Given that reality I think it's important to strongly express why I
40 believe that the 1990 boundaries are the ones that should be followed. I think Option C
41 parallels the decision of the GMHB.
42

43 Davis: To clarify, Option C means the County would not designate any LAMIRDs and Type
44 I LAMIRDs are those boundaries in which you can retain existing zoning. In Option C the
45 existing zoning would go away and you would be looking at a lot of non-conforming uses.
46 Melious: In the areas you have designated as rural centers what would happen to them if
47 we go with Option C?
48

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1 Davis: I believe we would be looking at rezoning to a rural zone with a density that is in
2 accordance with what the County feels is rural. The uses that exist there today would be
3 allowed to continue under non-conforming use provisions of the zoning code.

4
5 Melious: There are areas in Maple Falls and Glacier where that seems to be too harsh so I
6 support Option B.

7
8 **Wilson moved to support Option B. Mann seconded.**

9
10 Mann: Infill in those areas is appropriate so I support Option B.

11
12 Hunter: It seems to me that the question remains what rural character means. Underlying
13 that will need to be a decision made by us about whether we think increased rural
14 development, within certain areas, is consistent with rural character. There seems to be
15 some uneasiness with continuing building, not outward, but building and adding significant
16 carbon footprint in the rural areas by allowing infill and commercial infill. It seems to me
17 that Option C is the only one that says we don't want that. In my estimation there has
18 been way too much rural development already and that we are simply asking for more.

19
20 Lesow: If you look at the historical pattern of development, up until 1990, you do have
21 some historical framework. If you look at the development since then it has been
22 extremely high in the rural areas. To limit it now, based on a historical development
23 trend, I don't think is draconian at all. We have received a lot of testimony about keeping
24 Whatcom County rural and this speaks to those concerns as well.

25
26 Menzies: Generally, I'm in support of Option B. I think a lot of these areas already are
27 LAMIRDs and I think that by infilling at densities and uses that are already in these areas
28 are not going to have a major impact on these areas and is in fact a way to handle some
29 of the growth without going out into the truly rural areas. I think the challenge will be infill
30 at whatever the existing buildout is in those areas.

31
32 Mann: Regarding the comment made about carbon footprint, I think if you have an
33 existing commercial node that is a great thing because people don't have to travel as far
34 to get what they need. If we go with Option C we foreclose on the possibility that these
35 nodes, which are already developed, that they will have other services that may be useful.

36
37 Hunter: You are playing a game, the outcome of which I don't know, when you decide
38 that it's important to allow more business development because people like it when that's
39 not going to be supported unless there is also a significant number of additional
40 population.

41
42 Melious: I think that depends on if we decide to limit the Type I LAMIRDs to rural centers,
43 any particular use or if we decide there should be rural LAMIRDs as well. I don't think that
44 we are pre-destining the County to additional rural population. What we are saying with
45 Option B is there is at least one circumstance under which a Type I LAMIRD makes sense.
46 I think that makes sense whether or not there is additional commercial growth. Our non-
47 conforming use ordinance is very liberal in Whatcom County. It does allow some

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1 expansion and some change in use. It doesn't allow that kind of change of use or
2 expansion that existing businesses might need and could do under the existing zoning.

3
4 **Vote on motion to support Option B. The motion carried.**

5
6 3. How should the County evaluate potential LAMIRDs adjacent to UGAs?

- 7
8 ○ Option A. Do not designate LAMIRDs adjacent to UGAs; designate areas as
9 Rural or consider for inclusion within UGA.
10
11 ○ Option B. Consider LAMIRD designations adjacent to UGAs with justification.
12

13 Lesow: Planning staff has recommended no LAMIRDs next to UGAs (Option A),
14 Commissioner Mann recommends Option A, Belcher & Swanson recommends Option B,
15 and Goldstar, I believe, recommends Option B, and I favor Option A.
16

17 Wilson: What do you mean by *adjacent*? My reading of the GMHB is that they frown on
18 anything closer than ½ mile to 1 ½ mile.
19

20 Davis: It can vary. I think here we are saying the boundaries are contiguous.
21

22 Stalheim: One caution. If we do go to Option B we need to have criteria of what that
23 justification would be. We have at least three or four areas that are adjacent to UGAs.
24

25 Lesow: We live in a very interesting part of the world and the topography here is such
26 that if you are looking at the land on a map, at one dimension there looks like logical
27 places for Bellingham to expand. You have to appreciate the topography here though.
28

29 Hunter: It seems to me if we pick Option A and a place is near a UGA it either becomes
30 rural or part of the UGA, so if it became rural it certainly wouldn't be developed any more
31 than if it were a LAMIRD, and probably developed less. So the people that live there now
32 are more likely to have something like what they have right now, on a continuing basis,
33 unless, at some point, that area gets dragged into the UGA, which is the same option as if
34 it were a LAMIRD. I don't see that there is any area near a UGA that benefits from being
35 designated a LAMIRD.
36

37 **Wilson moved to support Option A. Mann seconded. The motion carried.**
38

39 4. To what extent should critical areas influence Type I LAMIRD designation?
40

- 41 ○ Option A. Evaluate on a parcel-by-parcel basis to determine whether
42 individual parcels are appropriate for infill and should be included in a Type I
43 LAMIRD
44
45 ○ Option B. Evaluate on an area-wide basis to determine whether an area is
46 appropriate for infill and should be designated a Type I LAMRID.
47

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- 1 o Option C. No critical area consideration—existing critical area ordinance
2 provisions would provide the protection needed.
3

4 Lesow: The Planning Department favors Option B, Commissioner Mann favors Option B,
5 Belcher & Swanson recommend Option C, Goldstar I am assuming Option C and I favor
6 Option A.
7

8 Menzies: Would critical areas be used to form the LAMIRD boundaries or to determine a
9 Type I LAMIRD?
10

11 Davis: This was discussed at a previous Planning Commission meeting and there was a
12 general comment from the Commission that critical areas ought to play into the criteria.
13 What we are looking to clarify is whether it should inform the big picture criteria of
14 whether an area should be designated or not or the small picture of each individual lot.
15

16 Menzies: Wouldn't that occur anyway under the Critical Areas Ordinance (CAO)?
17

18 Davis: Any individual development would be subject to the CAO.
19

20 Menzies: Does the County have the capacity to look at all of the different study areas and
21 potential LAMIRDS and make a decision?
22

23 Davis: Acme would be a good example. A good portion of the area we are studying is
24 either in the floodplain or affected by an alluvial fan hazard area. This gets to the question
25 of is this an area that's appropriate to plan for additional infill, under the existing zoning,
26 given the situation that may limit development?
27

28 Wilson: I am curious how the County intends to handle the inaccuracies that often seem
29 to appear on the GIS maps regarding wetlands and other critical areas.
30

31 Davis: That is something we would have to look at with Option A. It would be hard to look
32 at a map when making those decisions without the delineations that are required as part
33 of the development process. We do have big picture information that could make an
34 impact on the appropriateness of an area to be considered for additional infill.
35

36 Lesow: The County Council had a meeting, about a month ago, in which Council members
37 Crawford and Brenner had a spirited discussion about this parcel by parcel question as it
38 related to restrictions in the Lake Padden watershed. I believe it was Mary Dickinson that
39 came forward with the recent court decision, which said that you couldn't have a blanket
40 rule, you had to go on a parcel by parcel basis regarding these restrictions. I think it had
41 something to do with tree retention restrictions. Crawford's point was that in order to
42 comply with the laws you had to go by parcels. Is that what this is relating to? Would we
43 have problems if we approve something that is more general?
44

45 Stalheim: The case you are referring to is a King County case regarding land clearing that
46 was under a taxation statute. What we are doing is looking at the best available
47 information to determine if an area is appropriate for infill. I think that's a legislative call.
48

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1 Lesow: Are you comfortable with your department making that call?

2
3 Stalheim: I think we are comfortable with making the initial designation but it would be
4 subject to the public hearing process.

5
6 Lesow: Would the parcel by parcel option be too onerous from a staff standpoint?

7
8 Stalheim: Yes. We would probably look at the boundary edges.

9
10 **Menzies moved to support Option B. Lesow seconded. The motion carried.**

11
12 5. To what extent should existing urban governmental services and service area
13 boundaries, particularly water and sewer, influence Type I LAMIRD designation and
14 boundaries?

15
16 o Option A. Consider existing public utility services- particularly sewer-as a
17 criterion for designating an area a Type I LAMIIRD (but not the sole
18 criterion).

19
20 o Option B. Existence of public utility services should not be a criterion for
21 designation.

22
23 o Option C. Consider existing public sewer service as a criterion only when not
24 adjacent to an Urban Growth Area.

25
26 Melious: Option C is off the table because we have already decided that LAMIRDs won't be
27 considered next to UGAs.

28
29 Lesow: Option A was favored by Belcher & Swanson, Commissioner Mann and myself are
30 in favor of Option C or B.

31
32 Mann: I am leaning towards Option B.

33
34 Lesow: Pt. Roberts does have water but there have been fights for many decades about
35 whether or not to get sewers there. I think for that reason I favor Option B, because the
36 sewer aspect of Option A is something that I think many people in my community would
37 find onerous and perhaps in other rural communities as well.

38
39 Hunter: What is it about the existence of public utilities, within a particular area, that
40 should or should not help us make a decision about whether it's a LAMIRD or not?

41
42 Davis: We say particularly sewer, but that's not the only utility that we are looking for. We
43 say sewer because that's one that's considered more urban. Water service is not
44 necessarily urban. Sewer service may make an area more appropriate for LAMIRD
45 designation because any potential infill could be served by an existing sewer line. Part of
46 the whole GMA, urban versus rural versus LAMIRD designations hinges on efficient
47 provision of public services.

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1 Wilson: I see Option A as a good tool for the County to have.

2
3 Menzies: I'm not comfortable with using sewer as a criteria for designating LAMIRDs.
4 There are areas that have sewer that aren't appropriate for infill. We can look at it to form
5 boundaries but not as criteria for designating a LAMIRD.

6
7 Wilson: It says not as the sole criteria. I think a lot of other things need to be met in order
8 to qualify for recognition as a LAMIRD. Also, the point of a LAMIRD is to contain existing
9 development and infill usually consists of very tightly constrained redevelopment. If I'm
10 looking at an area on the map, that could be chosen as a LAMIRD, I'm probably going to
11 pick the one that has the most services available already to produce the least amount of
12 impact to the environment.

13
14 Menzies: I think sometimes people assume that because you have a sewage system that
15 represents an improvement to the environment and that's not always the case.

16
17 Mann: I have been thinking back to all of the times we have been pressured to allow more
18 development or density because there were urban services there. I think there are other
19 ways to choose what should be a LAMIRD.

20
21 Davis: I want to clarify that this particular question is talking about using existing facilities
22 as a big picture criteria for designation. Efficient provisions of public facilities and services
23 is one of the things that the GMA requires counties to address when drawing boundaries
24 so it is also in our boundary criteria and would need to stay there.

25
26 **Belisle moved to support Option A. Wilson seconded. The motion carried.**

27
28 6. Should Type I LAMIRDs, "Rural Centers," be designated only for commercial areas,
29 or should they include adjacent residential or even exclusively residential areas?

30
31 ○ Option A. Rural Centers should include only commercial areas within existing
32 (1990) small towns and crossroads commercial areas.

33
34 ○ Option B. Rural Centers should include commercial areas and adjacent
35 residential areas within existing (1990) small towns and crossroads
36 commercial areas.

37
38 ○ Option C. Same as Option B, also designating existing (1990) residential
39 areas where new infill is appropriate.

40
41 ○ Option D. Same as Option B or C, separating the Rural Center designation
42 into residential and commercial Rural Center designations.

43 **Wilson moved to support Option B. Mann seconded.**

44
45 Lesow: Pt. Roberts is used in the staff report as an example because of its unique nature.
46 Would the choice of Option B preclude the types of options that would be available for Pt.
47 Roberts?

48

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1 Davis: It shouldn't.

2

3 Menzies: What is the big difference Option B and Option C?

4

5 Davis: Option C would allow for creation of a Type I LAMIRD in an area that doesn't have
6 a commercial element to it. Lake Samish would be an example. There is no commercial or
7 industrial element within that potential LAMIRD area. The question we are asking is what
8 do we want to preserve with these LAMIRDs? We want to get your feedback and the
9 public's feedback on whether or not this rural center approach is appropriate.

10

11 Melious: In the staff report there is no strong argument for Option C and D. What were
12 the reasons for suggesting that it would be a good idea to have solely residential
13 LAMIRDs?

14

15 Davis: It was largely because of the possibility that the Lake Samish area could be
16 considered a LAMIRD. Back in 2003 that area was rezoned to RR2 just around the lake.
17 That rezoning recommendations made by staff followed the LAMIRD guidelines in State
18 law. The process was upheld on appeal.

19

20 Belisle: If we make, for example, the area on Beard Road that is residential, a LAMIRD,
21 okay, but if we don't it's going to be R5 and everything that's not already platted turns
22 into R5 so the line is drawn anyway. It's questionable why we would want those as
23 LAMIRDs anyway. I'm starting to understand why.

24

25 Davis: We have shown on the map the areas that could potentially have infill splitting that
26 could occur under the existing zoning, if it were to continue under a LAMIRD or if it was to
27 go to R5 no new lot sizes under five acres could be created.

28

29 Belisle: So I see no reason to go with Option C because the issue will take care of itself.

30

31 Mann: That's my observation too. Why would we want an exclusively residential LAMIRD?

32

33 Wilson: Again, it's another tool for Planning. It might need to be used in the future.
34 Another issue is property rights.

35

36 Hunter: It seems to me that there is no cutting off of development in the rural areas and
37 strictly residential areas if you put them into a LAMIRD as opposed to simply zoning them
38 five acre because if you zone them all five acres that means the whole area, including that
39 which would otherwise be in a LAMIRD, can be developed as much as it could have when
40 the LAMIRD was there, but no more. Unless we can decide that there is some benefit to
41 having purely residential areas as LAMIRDs there is nothing to be gained by changing it to
42 a LAMIRD.

43

44 Davis: We have to ask what our approach is in creating LAMIRDs. Do we want to create
45 them everywhere small lot subdivisions exist? Do we want to limit it to Rural Centers?
46 Areas that are most appropriate for allowing additional infill?

47

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1 Hunter: I am struggling with what difference it makes. It seems that it may reduce
2 development by a small amount if we don't designate purely residential areas as
3 LAMIRDs. It seems that we would discover a fairly substantial number of small enclaves
4 that have been developed at some non-rural level. It seems easier to zone them R5 and
5 let them develop as non-conforming uses, if they are able to.

6

7 **Vote on the motion to support Option B. The motion carried.**

8

9 7. How should the County change the zoning for residential zones outside the Type I
10 LAMIRDs?

11

12 ○ Option A. Amend the zoning map to change the residential zoning
13 classifications in all areas outside Type I LAMIRDs to Rural Five Acres (R5A)

14

15 ○ Option B. Amend the zoning code to require a minimum lot size of five acres
16 in all residential zones outside Type I LAMIRDs.

17

18 Davis: The purpose of this is not to consider whether to rezone Rural Residential versus
19 Rural, but in those areas that are now zoned Rural Residential that has a batch of uses
20 that could be retained if the zoning map wasn't changed. Right now there isn't any
21 property that is zone RR5A but in those areas that are zoned Rural Residential now, that
22 don't fall within a LAMIRD staff is proposing the option of allowing that batch of uses to
23 continue for consistency and for predictability for those property owners.

24

25 Mann: Can we consider RR10?

26

27 Davis: You could.

28

29 **Hunter moved to support Option B changing the acreage from 5 to 10 acres.**
30 **Lesow seconded.**

31

32 Hunter: Option A creates a lot of complicated struggles for all of the properties that aren't
33 Rural Residential. The consequence of going with Option A is that we just have one zoning
34 so all of the property that has been used in other ways, up to this point, doesn't become
35 available for that. I think that could create a lot of confusion. I am comfortable with
36 leaving the same options for everyone that they had before, but just increasing the
37 acreage.

38

39 Mann: I'm not sure we should go to RR10 because this is already a situation that poses
40 serious problems for property owners. I don't think R5 is rural though, but I don't think
41 this is the right process in which to make that stand.

42

43 Melious: I agree that R5 is too small for a rural area.

44

45 Hunter: We have been struggling with the County Council over issues of rural
46 development for a lot of years and have made almost no progress. There are various ways
47 to use proposals that we make to the Council. One of them is to continually remind them
48 that they have been remiss in regards to protection of our rural areas. One of the ways

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1 we can do that is to begin to zone the rural areas in a way that makes it harder and
2 harder to develop them. I'm not apologetic in forwarding something that the Council may
3 chose to not adopt.

4

5 Lesow: I support the motion. I think it's a modest proposal. Do we really want R5A
6 throughout the County?

7

8 Belisle: I understand the struggle and support the proposal.

9

10 Melious: I don't know that it will have a positive impact. I think there will be backlash and
11 why have backlash over this? The ones being affected are the owners of the smaller lots,
12 not the ones with five acre lots. We aren't looking at this in a holistic way.

13

14 Wilson: I agree with Commissioner Mann. We are here to come into compliance and to get
15 some basic framework in place. I don't know what the ramifications of increasing the lot
16 size would be. Why should we only be applying it to these areas?

17

18 Lesow: Does the motion, in any way, detract from the mandate we have from the GMHB?
19 I think it helps solve the mandate we were given.

20

21 Wilson: I don't have enough information to know what the impacts will be.

22

23 Hunter: I think the implications are zero. The zoning will be larger, but it will impact
24 exactly the same people. It's not holistic because we weren't given that option. It is a way
25 to continue to say to the County we are concerned about what is happening in the rural
26 area.

27

28 **Vote on the motion to support Option B changing the acreage from 5 to 10 acres.**

29 **The motion carried.**

30

31 8. How should the County address commercial and industrial zones outside the Type I
32 LAMIRDs?

33

34 ○ Option A. Designate the lots for Rural uses and rezone them to Rural zone
35 with five-acre minimum lot size, permitting the businesses to continue
36 operation under "nonconforming" status.

37

38 ○ Option B. Designate the lots for Rural uses and rezone them to a Rural zone
39 with five-acre minimum lot size, granting a zoning certificate that allows a
40 range of commercial uses that are compatible with rural character.

41

42 ○ Option C. Designate the lots as Type III LAMIRDs and retain commercial
43 zoning.

44

45 ■ Option C(1) Adopt spacing criteria that mandates certain distance by
46 road between Type III LAMIRDs and other LAMIRDs or UGAs
47 (possibly with more strict spacing requirements for proposed new
48 businesses than for existing businesses)

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- 1 ▪ Option C(2) Review all businesses throughout the county—whether
2 on commercial/industrial zoned land or on rural/residential zoned
3 land with a legal nonconforming status—and designate as Type III
4 LAMIRDs with appropriate underlying zoning.
5

6 Lesow: Planning staff supports Option B or C, Commissioner Mann indicated more
7 discussion was needed, Belcher & Swanson are for Option C, with the addition of industrial
8 uses, Goldstar, I assume, supports Option C and I support Option A.
9

10 Melious: One of the issues that comes up is if we have Option C they need to be isolated.
11

12 Davis: There is a memo that summarizes a number of GMHB cases on this issue,
13 especially on the isolation issue. There is also a good summary of what some of the other
14 counties have done.
15

16 Davis: A Type III LAMIRD is a case where you can designate existing uses on a particular
17 parcel or it gives the County the option of approving new Type III LAMIRDs for new
18 proposals that are isolated. A lot of counties designated Type III LAMIRDs on clusters of
19 existing businesses while putting a more stringent spacing requirement on any new
20 proposals that come in.
21

22 Mann: How difficult would it be to implement the zoning certification?
23

24 Davis: It could be complicated.
25

26 Stalheim: One of the concerns that we have is the non-conforming provisions out of the
27 zoning code. Right now the non-conforming provisions are pretty liberal but that could
28 change over time. One of our thoughts was granting these existing businesses a
29 conditional use or certificate that establishes their use and allows them to maintain that
30 use, or maybe have some expansion abilities. This would give them a right that can't be
31 taken away.
32

33 Melious: What would the GMHB think of this?
34

35 Stalheim: We would have to tailor the program to look at the existing uses and have some
36 limits.
37

38 Melious: Looking at Option C(1), and the area along the Guide Meridian where there are
39 commercial uses close together, will we have to pick one over another to be a LAMIRD?
40

41 Davis: That's a question some of the other counties have dealt with by not necessarily
42 applying all of the same spacing criteria to what exists. Anything new that came in would
43 have to comply to the spacing criteria.
44

44 **Hunter moved to support Option B with a 10 acre minimum lot size. Lesow**
45 **seconded.**
46

47 (Belisle left the meeting at 10:12 p.m.)

RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION

13

April 23, 2009

Regular Meeting

1 Mann: Who gets the zoning certificates? Just the existing businesses as of date of
2 adoption?

3

4 Hunter: It would be the existing businesses.

5

6 Mann: If I have a vacant piece of property do I get a certificate?

7

8 Hunter: Option B allows a range of commercial uses that are compatible with rural
9 character, it doesn't mention pre-existing businesses.

10

11 Davis: The intention of Option B is to allow for existing businesses. You should maybe
12 clarify that in the motion.

13

14 Hunter: I don't know that I have a strong feeling it either way.

15

16 Davis: I don't think the intention of Option B was to allow new businesses. Option C allows
17 that.

18

19 **Hunter modified his motion to read: Support Option B with a 10 acre minimum**
20 **lot size and allow a zoning certificate for existing businesses. Lesow accepted**
21 **the change.**

22

23 Mann: My feeling on sprawl is that residential development is a problem. In this county
24 commercial and industrial development, in appropriate areas, is a good thing. I would like
25 to see more job opportunities. But I guess if they aren't already there they won't be
26 developing anyway.

27

28 Menzies: Does the non-conforming issue disappear with the zoning certificate?

29

30 Davis: Yes.

31

32 Hunter: Would that certificate mean something like being vested?

33

34 Stalheim: Yes. We need to develop a concept. For example we may give them an
35 administrative permit that allows for that business. It may have some issues if it goes out
36 of that use. We might put some time limitations on that. We might have another type of
37 use that allows for limited expansions. I want to work with some of the businesses that
38 might be affected by this to come up with some wording.

39

40 Melious: If it's not a non-conforming use I don't see how we are in compliance with the
41 GMHB. If we are saying the zoning is going to conform and it's not a Type III LAMIRD and
42 this use doesn't fit the zoning then it either has to be a non-conforming or if we have
43 zoning in effect that isn't going to meet the requirements of the GMHB I would rather deal
44 with the issue through a Type III LAMIRD because it seems cleaner.

45

46 Wilson: I agree with Commissioner Melious. I would have concerns if we didn't have the
47 spacing requirements. They are very important.

48

RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION

14

April 23, 2009

Regular Meeting

1 Melious: I think we might end up with some non-conforming uses, which I know will be
2 hard for people to take, but I think State laws constrains our discretion.

3

4 Wilson: I think it's going to be an onerous to evaluate each business and create
5 something that works for them.

6

7 **Hunter withdrew the motion to support Option B with a 10 acre minimum lot size**
8 **and allow a zoning certificate for existing businesses.**

9

10 **Wilson moved to support Option C(1). Menzies seconded.**

11

12 Hunter: There are some things about Option B that I like. If we designate the lots as Type
13 III LAMIRDs and retain commercial zoning then their freedom to use that property is
14 pretty much open. They can change uses.

15

16 Davis: Within the permitted uses within that zone.

17

18 **Vote on the motion to support Option C(1). The motion carried.**

19

20 9. Should the County make changes to zones that allow urban uses, both inside and
21 outside Type I LAMIRD boundaries?

22

23 o Option A. Amend the zoning map to change the urban zones to a
24 corresponding rural zone consistent with rural character.

25

26 o Option B. Amend the zoning code to revise permitted and conditional uses to
27 make the zones more consistent with rural character.

28

29 o Option C. Within Type I LAMIRD boundaries, make no changes and allow the
30 current uses and densities to remain (rezone to five-acre zoning outside
31 those boundaries).

32

33 Davis: This is to get the Commission thinking of the types of zones that are within some
34 of these potential Type I LAMIRDs. Does the Commission want staff to pursue preserving
35 these zones exactly the way they are or are there uses that may be more urban in nature
36 and may not be fitting with the rural character? We may want to put a policy in place to
37 study this rather than act on it right away.

38

39 Lesow: I am in favor of Option A in terms of clarity. Isn't this more in keeping with the
40 mandate from the GMHB? Isn't Option A staff's recommendation as well as Commissioner
41 Mann's?

42

43 Davis: We are specifically mandated to deal with those zoning classifications that were
44 mentioned in the GMHB order. There is nothing specific about General Commercial or
45 Urban Residential 4. It occurred to us that we might want to at least put it in our work
46 program at some point in order to determine whether the uses that are allowed in these
47 zones are something that are compatible with rural character which needs to be a
48 consideration within these LAMIRDs.

RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION

15

April 23, 2009

Regular Meeting

1 **Lesow moved to support Option A. Hunter seconded.**

2
3 Davis: Another option may be to change a General Commercial zone in the LAMIRD to a
4 Small Town Commercial zone which allows a more rural bundle of uses. The other option
5 is to place in the zoning code, in the General Commercial section, some restrictions on
6 uses outside of UGAs.

7
8 Lesow: I'm concerned about putting restrictions on commercial businesses.

9
10 **Vote on the motion to support Option A. The motion carried.**

11
12 10. Should the County provide for transfer of development rights (TDR) from rezoned
13 areas outside LAMIRD boundaries?

14
15 **Hunter moved to not provide for TDRs. Menzies seconded. The motion carried.**

16
17 1. What is rural character?

18
19 Mann: What is rural within a LAMIRD and what is rural outside a LAMIRD? We voted that
20 outside a LAMIRD it's 10 acres minimum.

21
22 Wilson: We sort of said it's mixed use in a LAMIRD.

23
24 Mann: Have we answered the question of the residential zoning density we would want
25 inside a Type I LAMIRD?

26
27 Hunter: I'm not sure we have that choice.

28
29 Davis: We haven't addressed that particular question in any other questions.

30
31 Mann: Do you need it addressed?

32
33 Davis: I'm not sure. Looking at the maps is there any need to make changes?

34
35 Hunter: Doesn't the definition of a Type I LAMIRD include a requirement that the
36 development be consistent with that which has occurred?

37
38 Davis: Yes. The question is whether the Commission would want to reduce it.

39
40 **Hunter moved that an option is selected that provides that densities be**
41 **consistent with what occurred as of July 1, 1990. Lesow seconded. The motion**
42 **carried.**

43
44 Hunter: Do we anticipate that the substantially predominant use of our rural areas will be
45 for preserving and using our natural resources, protecting our farmlands, forests and
46 natural resources? It might be good to include that in what rural character means.

47
48 **Hunter so moved. Lesow seconded. The motion carried.**

RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION

April 23, 2009

Regular Meeting

1 Menzies: Isn't that already in the Comprehensive Plan?

2

3 Davis: There is similar wording.

4

5 The meeting was adjourned at 10:55 p.m.

6

7 Minutes prepared by B. Boxx.

8

9

10 WHATCOM COUNTY PLANNING COMMISSION ATTEST:

11

12

13

14

15 _____
Jean Melious, Chair

15 _____
David Stalheim, Secretary

16

17

18

19

20

21