

RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION

1

May 14, 2009

Regular Meeting

1 **Call To Order:** The meeting was called to order, by Whatcom County Planning
2 Commission Chair, Jean Melious, in the Northwest Annex Conference Room at 6:36 p.m.

3
4 **Roll Call:**

5 Present: Jean Melious, Rabel Burdge, John Lesow, Sean Wilson, John Steensma, John
6 Belisle.

7 David Hunter in attendance at 6:45 p.m.

8 Absent: Geoff Menzies, Ken Mann

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

11
12 **Director's Dialog**

13
14 Director Stalheim reviewed:

- 15
- 16 ■ The Planning Commission schedule for the remainder of 2009.
 - 17 ■ County Council action taken at the May 12th meeting.
 - 18 ■ Ongoing dialog with the City of Bellingham regarding their UGA land capacity
19 analysis.
- 20

21 **Open Session for Public Comment**

22
23 Bob Wiesen, Whatcom County: I think you have a real problem between theoretical land
24 capacity and actual land capacity. We talked about, in Bellingham, their toolbox of
25 planning infill tools. The way the neighborhoods feel is they don't want infill and the policy
26 is that infill doesn't go in residential areas anyway. You have to convince Bellingham to
27 change their neighborhoods in order for this to be successful. I think there should be more
28 infill but they have given the power to the neighborhoods. Bellingham has been building a
29 lot of multiple units but not have been supplying the single family residential homes.
30 That's why Ferndale, Birch Bay and Lynden are getting them. That's what people want.
31 Then they go to Bellingham to work.

32
33 **Commissioner Comments**

34
35 There were no Commissioner comments.

36
37 **Work Session**

38
39 Commercial and Industrial uses in the Rural Zone.

40
41 Staff stated that this is a follow up to question 8, from the Planning Commission's last
42 meeting. The question was what happens with commercial uses outside of the Type I
43 LAMIRD areas? The Commission gave staff direction that they should look at Type III
44 LAMIRDs that keep the original commercial zoning in place on the parcels.

- 45
- 46 1. How should Whatcom County define "isolated" in relation to Type III LAMIRD
47 designations?
- 48

RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION

May 14, 2009

Regular Meeting

- 1 o Option A. "Isolated" refers to a single parcel; a Type III LAMIRD would be
2 designated only on a single parcel spaced a minimum distance from any
3 other LAMIRD or UGA.
4
5 o Option B. "Isolated" refers to one or a group of parcels; a Type III LAMIRD
6 would be designated either on a single parcel, or a group of parcels with
7 commercial uses, spaced a minimum distance from any other LAMIRD or
8 UGA.
9

10 Staff stated that the GMA description of what is allowed in a Type III LAMIRD uses the
11 word "isolated" three times, so it's an important concept. There have been different
12 interpretations. One Growth Management Hearings Board (GMHB) decision didn't go into
13 whether or not it could contain more than one use within that area or whether it was a
14 stand alone situation, parcel by parcel. Skagit County says it is a relative term that
15 doesn't necessarily mean a single use or business. The Eastern Washington GMHB
16 (EWGMHB) says it's parcel by parcel.
17

18 **Wilson moved to adopt Option B. Belisle seconded.**
19

20 Hunter stated that it's almost certain that Option A will result in a substantially increased
21 number of non-conforming uses. He is not comfortable with setting up rules that creates a
22 large number of non-conforming uses and prefers Option B and not making a distinction
23 at all between 1990 and later development.
24

25 Lesow asked what is the definition of "group" in Option B?
26

27 Staff stated two or more.
28

29 Melious asked if there were going to be some Type III problems if there are 20 parcels
30 that make up the LAMIRD, when it's supposed to be small scale.
31

32 Staff stated that if you go back to the Type III you get back to the language of the act.
33 The act discusses small scale business and cottage industries. Drawing the groups too
34 large is going to be in conflict with the act.
35

36 Hunter questioned what too large means.
37

38 Staff stated that some of the zoning, along the Guide Meridian, is General Commercial and
39 these are not small scale businesses. We should look at trying to use the Type I LAMIRD
40 as much as possible because that allows us to use the logical outer boundary. The isolated
41 LAMIRD was really meant for isolated businesses.
42

43 Hunter stated that outside the Guide you aren't going to have the substantial acreage and
44 businesses.
45

46 Lesow stated that the Guide Meridian is a dangerous road. Having a group of industrial
47 along there will make it more dangerous. The grouping makes sense, say for example, the
48 Columbia Valley, but it doesn't make a lot of sense on the Guide.

RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION

May 14, 2009

Regular Meeting

1 **Vote on motion to adopt Option B. The motion carried.**

2
3 2. What other criteria should be used to consider Type III LAMIRD designations?

- 4
5 ○ Spacing
6 ○ Acreages/size limitations
7 ○ Ownership parameters
8 ○ Locational
9 ○ Numeric limits

10
11 Staff said that regarding spacing, they have attached examples of what other counties do.
12 The GMHB hasn't given guidance on this, other than to say 400 feet spacing was not
13 isolated enough. It goes back to what is the concept of isolated? Is having a business
14 every ¼ mile isolated? We are supposed to define rural character and if we find that
15 definition is different for different areas we could potentially have different rules.

16
17 Melious stated that having different criteria could be vulnerable to challenge. The purpose
18 of the LAMIRD regulations is to keep that land use pattern, that we already have, from
19 recurring. She stated that she was sure the preference would be to make those non-
20 conforming uses, except where they are generally isolated, because that would ultimately
21 eliminate the land use patterns that the state has said is not favored.

22
23 Hunter stated he didn't understand why Commissioner Melious would think that. Why
24 would it eliminate those non-conforming uses?

25
26 Melious responded that it wouldn't immediately, but it would eventually.

27
28 Hunter stated that if the Commission chooses to go with 1 mile they are creating more
29 non-conforming uses, which isn't what they want.

30
31 Belisle state that if you think about it this is what really leads to sprawl because the uses
32 are spread out rather than clustered together.

33
34 Hunter responded that for anything already existing it doesn't matter. It would just be the
35 new businesses that would have an effect.

36
37 The Commission skipped to item 3. How should the County differentiate between "new"
38 and already established uses, for purposes of applying Type III LAMIRD designation
39 criteria?

40
41 **Wilson moved to adopt Option B, from #3., which sets spacing for existing uses**
42 **(1990) at ½ mile and spacing for new uses (after 1990) at 1 mile. Hunter**
43 **seconded.**

44
45 **Hunter made a friendly amendment to change it to the effective date of these**
46 **new rules rather than have to different dates. Wilson accepted the amendment.**

47

RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION

May 14, 2009

Regular Meeting

1 Staff stated they were concerned about one set of criteria going to the effective date of
2 the ordinance. One option is to choose the date when we were found out of compliance,
3 which was September 20, 2005. Anything before that time could have a set of
4 requirements and everything after would have another set of requirements. This would
5 have more standing with the GMHB.

6
7 **Wilson reworded his motion to read: Create two sets of criteria, one for uses**
8 **established as of September 20, 2005 and another for those uses established**
9 **after that date. Hunter seconded. The motion carried.**

10
11 The Commission went back to discussion of 2.

12
13 Spacing Requirements.

14
15 **Wilson moved the spacing requirement be ½ mile for uses established as of**
16 **September 20, 2005 and 1 mile for uses established after that date. Steensma**
17 **seconded.**

18
19 Belisle asked how do you determine where to start the ½ mile or mile?

20
21 Staff responded that would be dependant on the locational criteria.

22
23 **Belisle moved to table the motion until the locational criteria is decided. Lesow**
24 **seconded. The motion carried.**

25
26 Locational Criteria

27
28 Staff said that one option for this would be that intersections to arterials would be a
29 priority.

30
31 Hunter stated that it would also depend on other criteria, such as acreage or how it serves
32 the community.

33
34 Melious would like to see job opportunities as a criteria.

35
36 **Wilson moved the locational criteria include the use be on an arterial**
37 **intersection or access points to arterials. Hunter seconded. The motion carried.**

38
39 Acreage/Size Limitations

40
41 Wilson stated that this is going to be very circumstantial, depending on what is going on
42 in each place.

43
44 Lesow asked if size limitations routinely applied to LAMIRDs in other jurisdictions? Why do
45 we need acreage limits?

46
47 Staff replied that the GMA language of small businesses and cottage industries mentions
48 it.

RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION

May 14, 2009

Regular Meeting

1 Wilson said that the built environment is going to mandate this and it's going to be on a
2 case by case basis. In the future it's going to be one business at a time.

3
4 Hunter stated he doesn't think it makes sense to limit existing uses because the basis for
5 deciding what to do with them is based on how they are laid out.

6
7 Staff stated that another issue to look at, regarding this, is whether to leave the more
8 intensive uses, such as General Commercial and Industrial, as they are or explore ways to
9 change the zoning to Small Town Commercial or a more rural set of uses.

10
11 **Wilson moved to adopt no criteria for size for uses created prior to September**
12 **20, 2005. Hunter seconded. The motion carried.**

13
14 Wilson left the meeting at 9:40 p.m.

15
16 The Commission discussed the issue of size criteria for uses created after September 20,
17 2005.

18
19 Davis stated one concern to keep in mind is the issue of spot zoning.

20
21 **Burdge moved that the size criteria be no more than 10 acres and no less than 1**
22 **acre. Lesow seconded. The motion carried.**

23
24 Ownership parameters

25
26 The Commission felt this criterion was not important so they did not take action on it.

27
28 Numeric limits

29
30 Lesow felt that if, for example, five Type III LAMIRDs were added each year there would
31 soon be no more room. How many would apply in a year?

32
33 Staff stated that creation of these LAMIRDs would involve a Comprehensive Plan
34 amendment, which is only done on a yearly basis, which may cut down on the number of
35 new ones. The majority would be created from September 2005 to the current date. He
36 thinks the process will be self-limiting so there is really no need to have a limit.

37
38 **Hunter moved that any new proposals for Type III LAMIRDs be limited to five**
39 **per year. There will not be a limit for business that already exist, as of the**
40 **effective date of the ordinance. Belisle seconded. The motion carried.**

41
42 Other Criteria

43
44 **Melious moved that creation of employment be considered. Lesow seconded. The**
45 **motion carried.**

46
47
48

May 14, 2009

Regular Meeting

1 **Work Session**

2

3 Urban Growth Area Review Process

4

5 Regional and County-wide Growth Allocation

6

7 Staff reviewed some of the items they have been discussing with the cities.

8

9 1. How much deference should be given to local proposals for growth allocation?

10

11 Each jurisdiction has a vision of what they want for their community so we need to
12 respect that. The issue may be that those visions conflict with the overall county/regional
13 vision. Identifying the regional issues is important.

14

15 2. Does the overall growth forecast require adjustment?

16

17 The Growth Management Coordinating Council (GMCC) has recommended a 2031
18 population forecast of 60,490. The current population requests came in at 61,971.
19 Employment came in a little low.

20

21 3. Is the initial pattern of growth distribution as proposed by the various entities the
22 most desirable alternative?

23

24 In the EIS Alternative Y has the growth decentralized out of the Bellingham area and went
25 to the smaller cities. This is what the growth allocation requests have been so far. The EIS
26 is showing that there is some benefit to the smaller communities growing larger because
27 of employment/travel, more services, etc.

28

29 Agricultural/Rural

30

31 1. Should UGA expansion or annexations into agricultural lands include mitigation for
32 the loss of agricultural lands?

33

34 Lynden and Sumas have no where to grow outside the current UGA that won't impact
35 agricultural lands. Everson, Nooksack and Ferndale also border agricultural land. There
36 may be some trade off to have these cities grow in different directions.

37

38 Water rights are an issue. If agricultural lands are annexed, that have water rights, can
39 the water rights be put into municipal use? Can the water rights be captured and sent
40 back out to the agricultural lands?

41

42 2. Is the allocation of growth to rural areas reasonable?

43

44 The current plan allocates growth at 6.3%. The current rural population is 30%. The rural
45 growth, over the last 18 years has been about 22.8%. The original allocation of 6.3% was
46 what was left over after the cities worked through their allocations so it wasn't a
47 reasonable policy consideration.

48

RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION

May 14, 2009

Regular Meeting

1 Public Facilities and Services

2

3 1. What expectations are there for demonstrating adequate public facilities and
4 services for all UGAs as part of this review process?

5

6 There is an issue with the fact that the UGA review is taking place versus a full
7 Comprehensive Plan review so there may be a gap in having the capital facilities plans
8 and as long as the gap isn't huge the issue may be addressed in the 2011 update.

9

10 Staff reviewed tables showing alternative population growth projections, population
11 allocation requests, shares of growth, alternative employment growth projections,
12 employment allocation requests, population allocation shares of growth and jobs-housing
13 ratio.

14

15 **Other Business**

16

17 Discussion took place regarding forming sub-committees to review the EIS for the UGA
18 update. No decisions were made.

19

20 The meeting was adjourned at 10:35 p.m.

21

22 Minutes prepared by B. Boxx.

23

24

25 WHATCOM COUNTY PLANNING COMMISSION ATTEST:

26

27

28

29

30 _____
Jean Melious, Chair

David Stalheim, Secretary

31

32

33

34

35

36