

Limited Areas of More Intensive Rural Development (LAMIRDs)
Statute and Growth Management Hearings Board Decisions

RCW 36.70A.070(5)

(5) Rural element. Counties shall include a rural element including lands that are not designated for urban growth, agriculture, forest, or mineral resources. The following provisions shall apply to the rural element:

.....

(d) Limited areas of more intensive rural development. Subject to the requirements of this subsection and except as otherwise specifically provided in this subsection (5)(d), the rural element may allow for limited areas of more intensive rural development, including necessary public facilities and public services to serve the limited area as follows:

(i) Rural development consisting of the infill, development, or redevelopment of existing commercial, industrial, residential, or mixed-use areas, whether characterized as shoreline development, villages, hamlets, rural activity centers, or crossroads developments.

(A) A commercial, industrial, residential, shoreline, or mixed-use area shall be subject to the requirements of (d)(iv) of this subsection, but shall not be subject to the requirements of (c)(ii) and (iii) of this subsection.

(B) Any development or redevelopment other than an industrial area or an industrial use within a mixed-use area or an industrial area under this subsection (5)(d)(i) must be principally designed to serve the existing and projected rural population.

(C) Any development or redevelopment in terms of building size, scale, use, or intensity shall be consistent with the character of the existing areas. Development and redevelopment may include changes in use from vacant land or a previously existing use so long as the new use conforms to the requirements of this subsection

(ii) The intensification of development on lots containing, or new development of, small-scale recreational or tourist uses, including commercial facilities to serve those recreational or tourist uses, that rely on a rural location and setting, but that do not include new residential development. A small-scale recreation or tourist use is not required to be principally designed to serve the existing and projected rural population. Public services and public facilities shall be limited to those necessary to serve the recreation or tourist use and shall be provided in a manner that does not permit low-density sprawl;

(iii) The intensification of development on lots containing isolated nonresidential uses or new development of isolated cottage industries and isolated small-scale businesses that are not principally designed to serve the existing and projected rural population and nonresidential uses, but do provide job opportunities for rural residents. Rural counties may allow the expansion of small-scale businesses as long as those small-scale businesses conform with the rural character of the area as defined by the local government according to *RCW [36.70A.030](#)(14). Rural counties may also allow new small-scale businesses to utilize a site previously occupied by an existing business as long as the new small-scale business conforms to the rural character of the area as defined by the local government according to *RCW [36.70A.030](#)(14). Public services and public facilities shall be limited to those necessary to serve the isolated nonresidential use and shall be provided in a manner that does not permit low-density sprawl;

(iv) A county shall adopt measures to minimize and contain the existing areas or uses of more intensive rural development, as appropriate, authorized under this subsection. Lands included in such existing areas or uses shall not extend beyond the logical outer boundary of the existing area or use, thereby allowing a new pattern of low-density sprawl. Existing

areas are those that are clearly identifiable and contained and where there is a logical boundary delineated predominately by the built environment, but that may also include undeveloped lands if limited as provided in this subsection. The county shall establish the logical outer boundary of an area of more intensive rural development. In establishing the logical outer boundary the county shall address (A) the need to preserve the character of existing natural neighborhoods and communities, (B) physical boundaries such as bodies of water, streets and highways, and land forms and contours, (C) the prevention of abnormally irregular boundaries, and (D) the ability to provide public facilities and public services in a manner that does not permit low-density sprawl;

(v) For purposes of (d) of this subsection, an existing area or existing use is one that was in existence:

(A) On July 1, 1990, in a county that was initially required to plan under all of the provisions of this chapter;

(B) On the date the county adopted a resolution under RCW [36.70A.040\(2\)](#), in a county that is planning under all of the provisions of this chapter under RCW [36.70A.040\(2\)](#); or

(C) On the date the office of financial management certifies the county's population as provided in RCW [36.70A.040\(5\)](#), in a county that is planning under all of the provisions of this chapter pursuant to RCW [36.70A.040\(5\)](#).

GMHB discussion/rulings on RCW 36.70A.070(5)

The GMA also recognizes that circumstances vary from county to county, and therefore it provides that in establishing patterns of rural densities and uses, a county may consider local circumstances, but shall develop a written record explaining how the rural element harmonizes the planning goals of RCW 36.70A.020 and the requirements of the Act RCW 36.70A.070 (5)(a).¹

Type 1 (d)(i) Rural Activity Centers:

The Board states that new development is not allowed in (d)(i) LAMIRDs (LAMIRDs consist of certain “existing areas”), except, as it may be part of infill development, or redevelopment. When designating and establishing LAMIRDs under (d)(i), a county must minimize and contain (per (d)(iv)) the existing area or use. The Board notes that when “establishing the logical outer boundary (LOB) for an existing area (but not for existing uses) under (d)(iv) a county is required to “clearly” identify and contain the LOB. That identification and containment must be “delineated predominately by the built environment,” but may include “limited” undeveloped lands”. The Board further defines “limited” as minimized or contained. Subsection (d)(iv) outlines what to address when drawing the LOB.²

The “reason to include undeveloped property in a LAMIRD is for “infill” under (d)(i) and not for expanding the LOB to include large and/or undeveloped properties.”³

¹ Clallam County., Clallam County Comprehensive Plan, 31.02.263

² *City of Anacortes v. Skagit County* 00-2-0049c FDO 2-6-01.

³ *Panesko v. Lewis County* 00-2-0031c FDO 3-5-001.

The Board ruled that a county may not continue to include previously invalidated large lots in a LAMIRD for the purpose of connectivity without evidence in the record that such lots constitute logical outer boundaries. The Board argued that the fact that excluding lots from the RAID would create nonconforming lots was not sufficient evidence.⁴

The Board ruled that the rules found in RCW 36.70A.070(5) are intended to accommodate pre-existing actual uses, not pre-existing zoning. Existing zoning cannot be used as a sole criterion for designating rural lands of more intense development.⁵

The Board ruled that a LAMIRD which combines commercial and industrial uses is a mixed use area and is not subject to the exemption under (d)(i) of industrial areas being freed from the requirement of being principally designed to serve existing and projected rural population. The Board goes on to say that the provisions under (d)(i) that exempt industrial areas from the requirement of being principally designed to serve the existing and projected rural population does not apply to industrial uses within a mixed use LAMIRD.⁶

An “industrial area” is not required to be principally designed to serve the “existing and projected rural population.” Thus, all other (d)(i) LAMIRDs (commercial, residential, or mixed-use) must be principally designed to serve the “existing and projected rural population.” In designating and establishing LAMIRDs under (d)(i) a county must “minimize and contain” ((d)(iv)) the existing area or existing use. Prohibitions against including lands within the logical outer boundary that allow a “new pattern of low-density sprawl” for the existing area or existing use must be adopted ((d)(iv)).

The key phrase here is allowed uses principally designed to serve the existing and projected rural population. This section calls for all LAMIRDs, except industrial LAMIRDs, to be designed principally to serve the existing and projected rural population. Light industry, small engine repair, furniture repair, and plumbing shops are uses obviously principally designed to serve more than just the rural population. These are clearly not uses that are appropriate to rural areas, rural densities, and are not consistent with maintaining rural character.⁷

The Board ruled that a LAMIRD which combines commercial and industrial uses is a mixed use area and is not subject to the exemption under (d)(i) of industrial areas being freed from the requirement of being principally designed to serve existing and projected rural population. The Board goes on to say that the provisions under (d)(i) that exempt industrial areas from the requirement of being

⁴ *ICCGMC v. Island County* 98-2-0023 CO 11-23-99.

⁵ *Wells v. Whatcom County* 97-2-0030.

⁶ *Dawes v. Mason County* 96-2-0023c RO 1-17-01.

⁷ *Dawes v. Mason County* 96-2-0023c CO 3-2-01.

principally designed to serve the existing and projected rural population does not apply to industrial uses within a mixed use LAMIRD.⁸

Commercial, industrial, residential, shoreline, or mixed-use areas of more intensive rural development are not subject to the Act's requirements to assure "visual compatibility of rural development with the surrounding rural area" and to reduce the "inappropriate conversion of undeveloped land into sprawling, low-density development in the rural area." However, areas of more intensive rural development are not "mini-UGAs" or a rural substitute for UGA, and they are subject to the limitations of RCW 36.70A.070(5)(d)(iv).⁹

The GMA does not put an explicit limit on the absolute residential density permitted in LAMIRDS. The limit is unique to each LAMIRD and is established by the conditions that existed on July 1, 1990.¹⁰

Type 2 (d)(ii) Recreational / Tourist Uses

A Type 2 LAMIRD may include new, intensified, and expanded development of small-scale recreational or tourist uses that rely on a rural location and setting.¹¹

The development may also include commercial facilities that serve the recreational or tourist uses, but new residential developments are specifically excluded in this type of LAMIRD.¹²

Unlike other LAMIRDS, small-scale recreational or tourist uses are not required to primarily serve or provide job opportunities for local residents.¹³

A Type 2 LAMIRD is meant to be a single lot or a combination of lots, not a wide area.¹⁴

The public services and public facilities serving a Type 2 shall be limited to those necessary to serve the recreation or tourist use and shall be provided in a manner that does not permit low-density sprawl.¹⁵

Type (iii) LAMIRDS Small – Scale Business

⁸ *Dawes v. Mason County* 96-2-0023c RO 1-17-01.

⁹ *ICCGMC v. Island County* 98-2-0023 (Final Decision and Order, 6-2-99)

¹⁰ *Burrow v Kitsap County* 99-3-0018 FDO 3-29-00.

¹¹ RCW 36.70A.070(5)(d)(ii) & *City of Anacortes v. Skagit County*, WWGMHB Case No. 00-2-0049c Final Decision and Order (C/I Development Issues) p. *9 (February 6, 2001).

¹² *Id.*

¹³ *Id.*

¹⁴ RCW 36.70A.070(5)(d)(ii).

¹⁵ RCW 36.70A.070(5)(d)(ii) & *City of Anacortes v. Skagit County*, WWGMHB Case No. 00-2-0049c Final Decision and Order (C/I Development Issues) p. *9 (February 6, 2001).

A Type 3 LAMIRD can include the intensification of development on lots containing non-residential uses or the new development of isolated cottage industries and isolated small-scale businesses. They need not be an existing use or be within a designated limited area of more intense rural development.¹⁶

“An isolated use, then, must be one that is set apart from others. The Legislature's use of the term ‘isolated’ for both cottage industry and small-scale businesses demonstrates an unambiguous intention to ensure that any commercial uses established by the mechanism of a type (d)(iii) LAMIRD be set apart from other such uses.”¹⁷

These businesses do not need to be designed to serve the rural population; however, they must provide job opportunities for rural residents.¹⁸

Both expansions of small-scale businesses and new small-scale businesses shall conform to the rural character of the area as defined by the county according to RCW 36.70A.030(14).¹⁹

“Public services and public facilities shall be limited to those necessary to serve the isolated nonresidential use and shall be provided in a manner that does not permit low-density sprawl.”²⁰

Logical Outer Boundaries RCW 36.70A.070(5)(d)(iv)

These criteria provide guidance in establishing the logical outer boundary (LOB), but the guidance is predicated on there being existing areas or uses. There must be more than existing zoning because designation must rely on the built environment.²¹

Prohibitions against including lands within the logical outer boundary that allow a “new pattern of low-density sprawl” for the existing area or existing use must be adopted ((d)(iv)).²²

In order to minimize and contain the existing development, the county must draw the boundary closely around the built environment and be able to clearly justify its choices.²³

¹⁶ RCW 36.70A.070(5)(d)(iii).

¹⁷ Better Brinnon Coalition v. Jefferson County, WWGMHB Case No. 03-2-0007 Compliance Order p. *7 of 14, 2004 WL 1864628 p. *4 (June 23, 2004) & James A. Whitaker v. Grant County, EWGMHB Case No. 99-1-0019 Second Order on Compliance p. *6, 2004 WL 2624887 p. *4 (November 1, 2004) quoting Better Brinnon Coalition.

¹⁸ RCW 36.70A.070(5)(d)(iii).

¹⁹ RCW 36.70A.070(5)(d)(iii).

²⁰ RCW 36.70A.070(5)(d)(iii).

²¹ Sky Valley v. Snohomish County, CPSGMHB No. 95-3-0068c (September 8, 1998)

²² Dawes v. Mason County 96-2-0023c C0 3-2-01.

Vacant land may be included in the LAMIRD and a county may make minor adjustments to a logical outer boundary to include undeveloped property.²⁴ Such undeveloped property is to provide for infill.²⁵ Infilling is allowed if it is “‘minimized’ and ‘contained’ within a ‘logical outer boundary.’”²⁶

Identification and containment must be “delineated predominately by the built environment,” but may include “limited” undeveloped lands. It has been determined from the GMA that the “built environment” only includes those facilities, which are “manmade,” whether they are above or below ground such as existing buildings, sewer lines and other urban level utilities or infrastructure. The extent of the infrastructure or the service area that existed in 1990 may be used to set the logical outer boundary.²⁷

In developing these boundaries, the county must avoid abnormally irregular boundaries, but this does not require that the boundary be drawn in a concentric circle or a squared-off block.²⁸

A county must take into account the requirement of including adequate public facilities and services that do not permit low density sprawl all within the logical outer boundary.²⁹

²³ Citizens for Good Governance, 1000 Friends of Washington, and City of Walla Walla v. Walla Walla County, Case No. 01-1-0015c & Case No. 01-1-0014cz Final Decision and Order, 2002 WL 32065594 *16 (May 1, 2002).

²⁴ Bremerton et al. v. Kitsap County & Port Gamble, et al. v. Kitsap County, CPSGMHB Case No. 95- 3-0039c coordinated with Case No. 97-3-0024c Finding of Noncompliance and Determination of Invalidity in Bremerton and Order Dismissing Port Gamble p. *14 (September 8, 1997) & Citizens for Good Governance, 1000 Friends of Washington, and City of Walla Walla v. Walla Walla County, Case No. 01-1-0015c & Case No. 01-1-0014cz Final Decision and Order, 2002 WL 32065594 *17 (May 1, 2002).

²⁵ Panesko v. Lewis County, WWGMHB Case 00-2-0031c Decision and Order p. *19 (March 5, 2001).

²⁶ Bremerton et al. v. Kitsap County & Port Gamble, et al. v. Kitsap County, CPSGMHB Case No. 95- 3-0039c coordinated with Case No. 97-3-0024c Finding of Noncompliance and Determination of Invalidity in Bremerton and Order Dismissing Port Gamble p. *14 (September 8, 1997) & Panesko v. Lewis County, WWGMHB Case No. 00-2-0031c Final Decision and Order p.*19 (March 5, 2001). Accord Citizens for Good Governance, 1000 Friends of Washington, and City of Walla Walla v. Walla Walla County, Case No. 01-1-0015c & Case No. 01-1-0014cz Final Decision and Order, 2002 WL 32065594 *17 (May 1, 2002).

²⁷ City of Anacortes v. Skagit County, WWGMHB Case No. 00-2-0049c Final Decision and Order (C/I Development Issues) p. *13 (February 6, 2001), Panesko, et al. v. Lewis County, et al., WWGMHB Case No. 98-2-0011c Final Decision and Order & Compliance Order, 2001 WL 246707 p. *15 (March 5, 2001), People For A Liveable Community, Jim Lindsay, et al. v. Jefferson County, WWGMHB Case No. 03-2-0009c Final Decision and Order p. *21 (August 22, 2003), & James A. Whitaker v. Grant County, EWGMHB Case No. 99-1-0019 Second Order on Compliance, 2004 WL 2624887 p. *3 (November 1, 2004).

²⁸ Vines v. Jefferson County, WWGMHB Case No. 98-2-0018 Final decision and Order (April 5, 1999).

²⁹ Panesko v. Lewis County, WWGMHB Case No. 00-2-0031c Final Decision and Order p. *19 (May 5, 2001).

The boundaries of a LAMIRD are permanent; the boundary cannot be expanded because this would be inconsistent with the goal of infilling existing areas of development.³⁰

Demand or need for commercial or residential development does not permit the expansion of LAMIRDs beyond their logical outer boundaries.³¹ To do so would discourage commercial and residential development within urban growth areas as required by the GMA.³²

“Nothing in the GMA expressly prohibits a county from reconsidering the boundaries of a LAMIRD or establishing a LAMIRD at a later date. The only condition the Legislature chose to impose is that the boundaries of a LAMIRD meet the applicable requirements. Subsection 7(c) of Ordinance No. 827, which provides that “Any request for a change in LAMIRD boundaries must demonstrate consistency with the [GMA] and with this Title” reflects this and is not inconsistent with the GMA. If a county can show its work, and the change remains consistent with the GMA, it may revise the LOB of a LAMIRD.”³³

The Eastern Washington GMHB held that "LAMIRDs must not be in too close proximity to UGA boundaries." Such a location would "promote the low-density sprawl that the LAMIRDs are required to avoid." Similar conclusions have been reached by both the Western GMHB in *Better Brinnon Coalition v. Jefferson County*, No. 03-2-0007 (2004) and the Central Puget Sound GMHB in *Tacoma v. Pierce County*, No. 99-3-0023c (2000).³⁴

The Western Board upheld a Mason County LAMIRD designation criterion that LAMIRDs be spaced at least one-half mile from any other LAMIRD or UGA. However, in the case of *People for a Liveable Community v. Jefferson County*, No. 03-2-0009c (2003), the Western Board did uphold a LAMIRD which abutted the Port Townsend UGA. The Board noted that Jefferson County had done an excellent job showing its work on the issue. In *Anacortes v. Skagit County*, No. 00-2-0049c (2001), the Western Board noted that the designation of a LAMIRD adjacent to the Anacortes UGA without an evaluation of the suitability of the area's proposed urban style development, need for urban services, or inclusion in the UGA did not comply with the GMA.³⁵

³⁰ Olympic Environmental Council v. Jefferson County, WWGMHB Case No. 00-2-0019 Final Decision and Order p. *5 of 8 (November 22, 2000).

³¹ Olympic Environmental Council v. Jefferson County, WWGMHB Case No. 00-2-0019 Final Decision and Order p. *5 of 8 (November 22, 2000).

³² Olympic Environmental Council v. Jefferson County, WWGMHB Case No. 00-2-0019 Final Decision and Order p. *5 of 8 (November 22, 2000).

³³ Dry Creek Collation and Futurewise v. Clallam County, WWGMHB Case no. 07-2-0018c Final Decision and Order p. 25 (April 23, 2008).

³⁴ Whitaker v. Grant County, 99-1-0019 (2004).

³⁵ *Dawes v. Mason County*, 96-2-0023 (2003).

RCW 36.70A.070(d)(v)

The Board stated that they “do not agree with the theory that vested or “right to build” = “built environment”. The property must contain the built environment as of July 1, 1990.³⁶

Subdivided or platted land, although occurring prior to 1990, which remains undeveloped may not be considered part of the built environment as the Legislature intended this term to relate to manmade structures.³⁷ The amendments in RCW 36.70A.070(5) are intended to accommodate pre-existing actual uses, not pre-existing zoning. Existing zoning cannot be used as a sole criterion for designating LAMIRDs.³⁸ It can be used as exclusionary criteria.³⁹

Additional WWGMHB Cases **Discussion and rulings**

Better Brinnon Coalition v. Jefferson County, 03-2-0007 (Compliance Order, 6-23-04)

Issue presented: Does the new type (d)(iii) LAMIRD proposed to be located adjacent the type (d)(i) LAMIRD meet the requirements of RCW 36.70A.070(5)? Challenges are being made for both the isolated nature of the LAMIRD as well as the small-scale character of the cottage industry and business allowed within the new LAMIRD.

Discussion:

The type (d)(iii) LAMIRD must meet the requirements of RCW 36.70A.070(5)(d)(iii) and is not merely the same thing as a type (d)(i) LAMIRD without the requirement of a logical outer boundary established in accordance with the built environment as of July 1990.

“If new type (d)(iii) LAMIRDs could be created for commercial development abutting other LAMIRDs, it would be possible to create strip malls or other stretches of more intensive rural development throughout the rural areas. This would encourage sprawl in the rural areas rather than containing limited amounts of development in the rural zone as envisioned by the Act.

³⁶ *Anacortes v. Skagit County* 00-2-0049c FDO 2-6-01.

³⁷ *Butler et al v. Lewis County* Case No. 00-2-0031c/99-2-0027c, FDO & CO (March 5, 2001).

³⁸ *Wells v. Whatcom County* 97-2-0030 (Final Decision and Order, 1-16-98)

³⁹ *Vines v. Jefferson County, WWGMHB Case No. 98-2-0018* Final Decision and Order p.*2 (April 5, 1999).

We therefore find that the proposed new type (d)(iii) LAMIRD does not comply with RCW 36.70A.070(5)(c)(i) and (iii), and 36.70A.070(5)(d)(iii) and (iv) because it connects a new area of more intense rural uses to an existing LAMIRD which allows the same kinds of uses, the Brinnon Rural Village Center. LAMIRDs must limit and contain growth, not extend it from one LAMIRD to the next.”

The Legislature’s use of the term “isolated” for both cottage industry and small-scale businesses in RCW 36.70A.070(5)(d)(iii) demonstrates an unambiguous intention to ensure that any commercial uses established by the mechanism of a type (d)(iii) LAMIRD be set apart from other such uses.

“... The statute refers to “lots containing isolated nonresidential uses or new development of isolated cottage industries and isolated small-scale businesses”. First we observe that the term “isolated” is used repeatedly to modify the type of use allowed in the type (d)(iii) LAMIRD. The terms “cottage industries” and “small-scale businesses” are both modified by the term “isolated”. There is no ambiguity about the application of the term “isolated” to both types of uses. Second, we note that the term “isolated” is *not* used to modify “lots”. The lots described in the statute contain isolated uses but the lots themselves are not defined as “isolated”. We therefore conclude that the statute is referring to isolated uses rather than to isolated lots. If it were sufficient for the location to be isolated or remote as the County argues, then the term “isolated” would have been applied to “lots” rather than (or in addition) to “cottage industries” and “small-scale businesses”.

Our inquiry does not end there, however. We must still decide what it means for the uses to be isolated. Participant argues that the term “isolated” must “at least include the notion that the new (d)iii LAMIRD is discontinuous from other commercial development”. Ex. 13-50 (Comment letter of Nancy Dorgan). Because the Brinnon Rural Village Center is a mixed-use type (d)(i) LAMIRD, she argues, the new overlay would mean that commercial uses would be allowed in two adjacent LAMIRDs. *Id.*

The dictionary indicates that the derivation of the word “isolate” comes from the Latin “insula” meaning “island.” “Isolate” is defined as “to set apart from others; place alone.” Webster’s New World Dictionary of the American Language, College Edition. An isolated use, then, must be one that is set apart from others. The Legislature’s use of the term “isolated” for both cottage industry and small-scale businesses demonstrates an unambiguous intention to ensure that any commercial uses established by the mechanism of a type (d)(iii) LAMIRD be set apart from other such uses.

It is also important to remember that a central requirement of all LAMIRDs is that they contain the uses and areas of more intense rural development.

RCW36.70A.070(5)(d)(iv). Further, pursuant to RCW 36.70A.070(5)(c), every county must assure that rural development is contained and that inappropriate conversion of undeveloped land into sprawling, low-density development is reduced in the rural areas. RCW 36.70A.070(5)(c)(i) and (iii). We question whether side-by-side LAMIRDs can be said to contain the areas of more intense

development, particularly when the proposed type (d)(iii) LAMIRD is for the purpose of allowing new development.”

Rulings:

“If new type (d)(iii) LAMIRDs could be created for commercial development abutting other LAMIRDs, it would be possible to create strip malls or other stretches of more intensive rural development throughout the rural areas. This would encourage sprawl in the rural areas rather than containing limited amounts of development in the rural zone as envisioned by the Act.”

“We find that the proposed new type (d)(iii) LAMIRD does not comply with RCW 36.70A.070(5)(c)(i) and (iii), and 36.70A.070(5)(d)(iii) and (iv) because it connects a new area of more intense rural uses to an existing LAMIRD which allows the same kinds of uses. LAMIRDs must limit and contain growth, not extend it from one LAMIRD to the next. “

“Because we find that the proposed new overlay type (d)(iii) LAMIRD may not be located so that it extends more intense rural development rather than containing and reducing it, we do not reach the question of the extent to which a type (d)(iii) LAMIRD may contain multiple cottage industries or small-scale businesses or the question of what constitutes “small-scale”. The answers to these questions will have to await another day.”

Dawes v. Mason County 96-2-0023c “COMPLIANCE ORDER November 12, 2003”

RCW 36.70A.030(14):

These isolated commercial LAMIRDs, however, shall protect rural character, which is defined at RCW 36.70A.030(14), by containing and limiting rural development, but not being in conflict with surrounding uses and by assuring that such development is visually compatible with the surrounding area.

The County’s primary method of achieving such purpose is by providing for buffer yards, limiting the character of rezones, by limiting building size, height, and floor to area ratios in such a way to be appropriate in rural areas. Public services and facilities shall not be provided so as to permit low intensity sprawl.

County’s strategy is that the scale, intensity, and design of the rural use are more important to protecting rural character than the type of use.

When we examine the amendments to the County’s rural commercial zones imposed by Ordinance 09-03, we find that the County has incorporated mitigating measures of landscaped buffers, floor area ratios, sign regulations, special use

permits, and limitations on size⁴⁰ and heights⁴¹ of buildings. Exhibit # 3301, at 11-15. We find that these measures will enable the County to mitigate the impacts of new development or redevelopment on rural character and the environment in these LAMIRDs. These mitigating measures are an important factor in making the designation of these LAMIRDs compliant with the GMA.

We find that the County has provided mechanisms through landscaped buffers, adequate setbacks, and sign regulations to help assure visual compatibility with the surrounding area and fulfill the County's obligations as to RCW 36.70A.070(5)(c)(ii) for Type 5(d)(iii) LAMIRDs. We find that the limitations placed on rural commercial development through the use of appropriate floor area ratios, limitations on size and height of buildings, special use permits for some uses, and permitting some uses like gas stations and self storage only as accessory uses in certain zones coupled with the drawing of boundaries around existing small-scale isolated commercial LAMIRDs make the County's Rural Zoning Categories consistent with RCW 36.70A.070(b) and RCW 36.70A.070(b) and (c)(i) and (iii) Exhibit # 3338, at 1-37.

In the June 6, 2003 order in this case, we found that the County had removed substantial interference with RCW 36.70A.020(1) and (2) by instituting the following measures:

- drawing boundaries around parcels containing existing small-scale isolated nonresidential uses that existed prior to July 1, 1990;
- imposing numerical limits of no more than five a year on future rezones involving more intensive uses in rural areas outside of Rural Activity Centers (RACs) and hamlets;
- limiting the numbers of acres that can be rezoned to more intensive uses in the rural area outside of RACs and hamlets, to 50 acres, except for Rural Tourist Campground or Rural Natural Resource Area;
- requiring that rezones for isolated small-scale business rezones cannot occur within one-half mile of any other LAMIRD or Urban Growth Area;
- adding mitigating measures when allowing the permitting of new development or expansion of current development in Rural Commercial designations by including in their development regulations limitations on building size and including height, increased setbacks, landscaping, and regulation of signs; and
- adopting a now compliant Resource Ordinance to conserve resource lands and protect critical areas in or adjacent to LAMIRDs. See WWGMHB 95-2-0073 *Dawes v. Mason County* (Compliance Order June 6, 2003)

⁴⁰ Size of buildings is limited to 4500 square feet in R1 and 2 zones and 7200 feet in R3 zones.

⁴¹ Height of buildings in all rural commercial zones is limited to 2 stories or 35 feet.

Other GMHB Cases

The Board agrees with (Clallam) County in regard to CCC 31.02.285(4)(b)(Policy 7). This policy prohibits the extension of sanitary sewer lines except when on-site disposal systems a threat or risk to public health. The policy needs to be read with CCC 31.02.285((Policy 9) which says that if sanitary sewer systems extend into rural or resource an area of failing systems, the sewage lines extending from the urban area should transmission only (tight-lines) and sized only to serve the area declared necessary. Board finds this policy responsible and compliant with RCW 36.70A.110(4).⁴²

The Western Board prohibited a LAMIRD adjacent to an urban growth area where there was no evaluation of suitability of allowed urban style development, no evaluation of the need for urban services, and no evaluation of whether the area should have been included an urban growth area.⁴³ In a different case, the Western Board upheld a LAMIRD adjacent to an urban growth area where there had been careful study of the LAMIRD and where the city opposed both urban growth area expansions and a non-municipal urban growth area for the area within the LAMIRD.⁴⁴

The Eastern Washington GMHB held that "LAMIRDs must not be in too close proximity to UGA boundaries." Such a location would "promote the low-density sprawl that the LAMIRDs are required to avoid." Similar conclusions have been reached by both the Western GMHB in *Better Brinnon Coalition v. Jefferson County*, No. 03-2-0007 (2004) and the Central Puget Sound GMHB in *Tacoma v. Pierce County*, No. 99-3-0023c (2000).⁴⁵

The Western Board upheld a Mason County LAMIRD designation criterion that LAMIRDs be spaced at least one-half mile from any other LAMIRD or UGA. However, in the case of *People for a Liveable Community v. Jefferson County*, No. 03-2-0009c (2003), the Western Board did uphold a LAMIRD which abutted the Port Townsend UGA. The Board noted that Jefferson County had done an excellent job showing its work on the issue. In *Anacortes v. Skagit County*, No. 00-2-0049c (2001), the Western Board noted that the designation of a LAMIRD adjacent to the Anacortes UGA without an evaluation of the suitability of the area's proposed urban style development, need for urban services, or inclusion in the UGA did not comply with the GMA.⁴⁶

⁴² *Dry Creek v. Clallam County*, WWGMHB Case No. 07-2-0018c Final Decision and Order (April 23, 2008)

⁴³ *City of Anacortes v. Skagit County*, WWGMHB Case No. 00-2-0049c Final Decision and Order (C/I Development Issues) p. *18 (February 6, 2001)

⁴⁴ *People for A Liveable Community, Jim Lindsay, et al. v. Jefferson County*, WWGMHB Case No. 03-2-0009c Final Decision and Order p. * 11 (August 22, 2003).

⁴⁵ *Whitaker v. Grant County*, 99-1-0019 (2004).

⁴⁶ *Dawes v. Mason County*, 96-2-0023 (2003).