

From: Gary Davis
To: Rural Element
Date: 5/7/2009 3:36 PM
Subject: Whatcom County Rural Element Update - May 14 Planning Commission meeting and upcoming public meetings
Attachments: Memo050609.pdf; TypeIII-Brief.pdf; 20090423-policydirection.pdf

Good afternoon,

On April 23, the Planning Commission provided direction on ten policy questions related to establishing LAMIRDs (see policy direction document, attached). Staff has scheduled an additional discussion on commercial uses outside Type I "Rural Center" LAMIRDs (the topic addressed in Question 8 on April 23), at the Planning Commission's May 14 work session. This session will be at the Northwest Annex, 5280 Northwest Dr. Bellingham at 6:30 pm. The attached memorandum to the Planning Commission poses three additional policy questions regarding designation of Type III LAMIRDs.

The next set of public meetings on the Rural Element Update is scheduled for:
Tuesday, June 30, 2009

1:00-3:30 pm: Fire Station 61, 9408 Odell Rd, Blaine

6:00-8:30 pm: Mount Baker High School, 4936 Deming Rd, Deming

Wednesday, July 1, 2009

9:00-11:30 am: Whatcom County Council Chambers, 311 Grand Ave, Bellingham

6:00-8:30 pm: Meridian High School, 194 W. Laurel Rd, Bellingham

At these meetings, County staff will present proposed changes to the comprehensive plan and zoning code, and will receive comments and answer questions. The next Planning Commission public hearing on the topic is scheduled for July 9, 2009. County staff will continue to post all written comments to the County Website at <http://www.whatcomcounty.us/pds/plan/long/projects/lamird/updateprocess.jsp>

Thank you for your continued interest in this issue. Please contact me if you have comments or questions.

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M E M O R A N D U M

TO: Whatcom County Planning Commission

THROUGH: David Stalheim, Director

FROM: Wain Harrison, Long Range Planning Supervisor
Gary Davis, AICP, Senior Planner
Samya Lutz, Planner II

DATE: May 6, 2009

SUBJECT: Rural Element Update – Commercial/Industrial Limited Areas of More Intensive Rural Development

On April 23, 2009 the Planning Commission provided direction on ten policy issues related to designation of "limited areas of more intensive rural development" (LAMIRDs) in Whatcom County. Staff would like to resolve additional questions related to question 8, how to address commercial and industrial zones falling outside designated Type I LAMIRD "Rural Centers."

In response to question 8, the Planning Commission directed staff to draft policy based on Option C-1, designating the lots as Type III LAMIRDs and retaining commercial zoning, and adopting spacing criteria that mandates certain distance from other LAMIRDs or UGAs. This memorandum poses follow-up questions seeking direction on the spacing and grouping of businesses designated as Type III LAMIRDs, and provides background information on how these issues have been addressed by the Growth Management Act (GMA), Growth Management Hearings Board (GMHB) decisions, and other counties. The full text of RCW 36.70A.070(5), the section of GMA pertaining to the rural element of county comprehensive plans, is included at the end of this memo for reference.

1. How should Whatcom County define "isolated" in relation to Type III LAMIRD designations?

RCW 36.70A.070(5)(d)(iii) states (in part) that LAMIRDs fitting the following description are allowed (referred to as Type III LAMIRDs):

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.

The meaning of the word ‘isolated’ is critical to the local implementation of this section. Different counties have taken different approaches to defining the word ‘isolated’ and Growth Management Hearings Boards have given differing interpretations. The Western Washington GMHB said:

...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.... 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.¹ (pp. 6-7)

They go on to say “...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.”

In this context, Skagit County has adopted the following definition:

Finding 134. In the context of Skagit County’s historic development patterns, which is a mix of stand-alone commercial uses and small groups of commercial uses, the County views “isolated” as mentioned in RCW 36.70A.070(5)(d)(iii) as a relative term that does not necessarily mean a single use or business. For example, “isolated” cottage industry or small scale businesses may be a stand-alone or small group of commercial operations located in a Rural Village or Rural Center, where they can take advantage of existing more intense rural uses and be consistent with existing more intense rural character.

Finding 135. Alternatively, it may be located as a single use in the rural area. For the purposes of compliance with the GMA, commercial uses are considered “isolated” as long as they are consistent with the balance of the rural policies in the Comprehensive Plan and are not of such a nature, number, or intensity that they constitute urban development or urban or rural sprawl, or require the extension of urban services to the rural area.²

However, an Eastern Washington GMHB decision makes a stricter interpretation of “isolated,” saying:

It is...required that the cottage industry and small-scale business itself be isolated from other similar uses The location adjacent to other LAMIRDs or

¹ Better Brinnon Coalition v. Jefferson County, WWGMHB Case No. 03-2-007, Compliance Order, June 23, 2004, pp.6-7.

² Skagit County Ordinance 17938, Adopted July 24, 2000 (pp 27-28 of Attachment A).

allowing similar uses within it causes a LAMIRD to not meet the requirement for “isolated” uses.³

Whatcom County must develop its own approach to defining “isolated,” consistent with GMA’s overall intent of minimizing and containing intensive sprawl development in rural areas:

Option A. “Isolated” refers to a single parcel; a Type III LAMIRD would be designated only on a single parcel spaced a minimum distance from any other LAMIRD or UGA.

Option B. “Isolated” refers to one or a group of parcels; a Type III LAMIRD would be designated either on a single parcel, or a group of parcels with commercial uses, spaced a minimum distance from any other LAMIRD or UGA.

Staff recommends Option B, an approach similar to Skagit County’s definition, where an isolated “small group” of businesses could be designated as a Type III LAMIRD, separated from other small-group or single-parcel Type III LAMIRDs. This recognizes that current business uses do exist in small groups (which may not meet the criteria for designation as a Type I LAMIRD “Rural Center”) but would contain these uses within LAMIRD designations and prevent their spread into sprawling strip development patterns. Establishing a set of specific criteria for size and location of these LAMIRDs is critical to limiting and containing these uses, and is discussed in the following question.

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

Some counties have adopted additional specific criteria to meet the goals of controlling sprawl and limiting intensive rural development, and to ensure that the size, use, scale, and intensity of uses are compatible with existing uses. Examples include:

- Spacing (e.g.: at least one half mile by public road from one Type III LAMIRD to another LAMIRD or UGA)
- Acreage/size limitations (e.g.: no more than 10 or less than 1 acre in any Type III LAMIRD)
- Ownership parameters (e.g.: allow multiple parcels in Type III only if in common ownership)
- Locational (e.g.: Type III located on arterial or access point to arterial)
- Numeric limits (e.g.: no more than 5 new Type III LAMIRDs allowed in any given year)

Which, if any, of these criteria should Whatcom County use to designate Type III LAMIRDs?

What numeric values for distance, acres, number of parcels, etc. should be used?

Note there could be separate criteria for “new” uses than for those already established – this is discussed in Question 3 below.

3. How should the County differentiate between “new” and already established uses, for purposes of applying Type III LAMIRD designation criteria?

³ Whitaker vs. Grant County, EWGMHB Case No. 99-1-0019, Second Order on Compliance, November 1, 2004, p. 5.

The Question 8 policy option the Planning Commission chose on April 23, Option C-1, involves applying different Type III LAMIRD designation criteria to new nonresidential uses than to those already established. If the County intends to make such a distinction, it needs to be clear in recognizing what a “new” use is.

GMA allows within Type III LAMIRDs two distinct activities: “The **intensification of development** on lots containing isolated nonresidential uses or **new development** of isolated cottage industries and isolated small-scale businesses...” An Eastern Washington GMHB decision⁴ says the definition of “existing” in RCW 36.70A.050(5)(d)(v) (“existing use or existing area” is one that was in existence on July 1, 1990) applies to all three types of LAMIRDs, and “for any ‘intensification’ allowed under Type II or Type III the designated use or area must have been in existence on July 1, 1990.” Thus, “intensification” would not be allowed for uses established after July 1, 1990, which would be considered “new.” A Western Washington GMHB decision⁵ said Mason County had removed substantial interference with GMA planning goals by designating parcels containing existing small-scale isolated nonresidential uses that existed prior to July 1, 1990 and adopting criteria limiting the size, spacing, and number of Type III LAMIRDs.

Using July 1, 1990 as the dividing line between new and existing uses for purposes of establishing criteria presents some problems with respect to applying criteria consistently. For example, it could be problematic to apply spacing requirements to “new” development if some of that development occurring since 1990 has already been established in groups.

Options include:

Option A. Create one set of criteria to apply to all Type III LAMIRDs -- both new and already established.

Option B. Create two sets of criteria – one for uses established as of July 1, 1990, the other for those established after that date.

Option C. Create three sets of criteria – one for uses established on or before July 1, 1990, another for those established after July 1, 1990 but before 2009, and a third for those established after 2009.

Staff recommends Option B, which has been used by both Skagit and Mason Counties (see the “Framing the Commercial/Industrial LAMIRD Issue” paper, attached). Option C may be viable as well, allowing for adjusting criteria (such as spacing) for “new” uses based on whether they are proposed or are already established.

Attachments:

Text of RCW 36.70A.070(5)

Framing the Commercial/Industrial LAMIRD Issue

⁴ Whitaker vs. Grant County, EWGMHB Case No. 99-1-0019, Order on Compliance, May 6, 2004, p. 8.

⁵ Diehl vs. Mason County, WWGMHB Case No. 96-2-0023c. Compliance Order, November 12, 2003, p.3.

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:

- (a) Growth management act goals and local circumstances. Because circumstances vary from county to county, 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 in RCW 36.70A.020 and meets the requirements of this chapter.
- (b) Rural development. The rural element shall permit rural development, forestry, and agriculture in rural areas. The rural element shall provide for a variety of rural densities, uses, essential public facilities, and rural governmental services needed to serve the permitted densities and uses. To achieve a variety of rural densities and uses, counties may provide for clustering, density transfer, design guidelines, conservation easements, and other innovative techniques that will accommodate appropriate rural densities and uses that are not characterized by urban growth and that are consistent with rural character.
- (c) Measures governing rural development. The rural element shall include measures that apply to rural development and protect the rural character of the area, as established by the county, by:
 - (i) Containing or otherwise controlling rural development;
 - (ii) Assuring visual compatibility of rural development with the surrounding rural area;
 - (iii) Reducing the inappropriate conversion of undeveloped land into sprawling, low-density development in the rural area;
 - (iv) Protecting critical areas, as provided in RCW 36.70A.060, and surface water and groundwater resources; and
 - (v) Protecting against conflicts with the use of agricultural, forest, and mineral resource lands designated under RCW 36.70A.170.
- (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) **[Type I LAMIRD]** 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.

Framing the Commercial/Industrial Type III LAMIRD issue

Problem: One part of the LAMIRD discussion relates to property currently zoned commercial or industrial that may not have been developed as of July 1, 1990. Most of the affected parcels in this category fall within the Transportation Corridor category in the Whatcom County Comprehensive Plan.

The 2005 Western WA Growth Management Hearings Board Order (Case No. 05-2-0013) stated that the Transportation Corridor descriptor for Whatcom County (including Gateway Industrial & Guide Meridian) must incorporate the requirements of RCW 36.70A.070(5)

Objectives: To meet requirements of the Growth Management Act, Countywide Planning Policies, WWGMHB final decision & order: (key themes listed)

- Designate LAMIRDs according to RCW 36.70A.070(5) (WWGMHB); including measures that:
 - Contain or otherwise control rural development
 - Assure visual compatibility with surrounding rural area
 - Reduce inappropriate conversion of undeveloped land
 - Protect critical areas, surface water and groundwater
 - Protect against conflict with resource lands
- Retain urban vs. rural distinctions (CWPP)
- Encourage economic development & employment (CWPP & GMA)
- Enhance natural resource-based industries (GMA & CWPP)
- Protect the environment (GMA) / protect water quality & quantity (CWPP)
- Protect private property rights (CWPP & GMA)
- Encourage development in urban areas (CWPP & GMA)
- Reduce sprawl (GMA) / prevent strip development (CWPP)

Alternatives:

Type I – While the preferred option may be to designate areas as Type I LAMIRDs, Type I LAMIRD designation must be based on the built environment predominating on July 1, 1990, & not extend beyond logical outer boundaries (RCW 36.70A.070(5)(d)(iv)). This option is simply not available for areas without an existing built environment as of July 1, 1990.

Here is an example of a GMHB discussion on this issue (note Lewis County was required to plan under the provisions of GMA on July 1, 1993, not July 1, 1990 as is the case with Whatcom County):

“The next Freeway/Commercial area shown by Ex. VIII-309 is located north of the river on both sides of I-5 and includes the connecting of SR 506 with I-5. The record demonstrated that a very limited and spotty built environment and uses existed on July 1, 1993. The LAMIRD, however, includes vast areas of acreage that are not even ‘intense rural development’ today. The LAMIRD as designated does not comply with the Act. Additionally, the entire area substantially interferes with Goals 1,2, and 12 of the Act. There is very little and very unconnected commercial rural development that existed on July 1, 1993. There may be other alternatives the County can employ in its goal to protect these businesses, but drawing this

particular LAMIRD does not comply with the Act and does substantially interfere with the Act's goals." (*Panesko v. Lewis County, WWGMHB Case No. 00-2-0031c (Final Decision & Order 3-5-01)*)

- Rezone – Though still an option for policy makers, public comments have indicated the following is not a preferred option for those who own or manage commercial or industrial zoned property with existing commercial/industrial uses [reflecting Options A & B under question 8 in the 3/26/09 staff memo]: Change to Rural zoning in areas not predominated by the built environment on July 1, 1990 (allow existing use through zoning certificate or nonconforming use affidavit).
- Type III – A remaining option [reflecting Option C under question 8 in the 3/26/09 staff memo] is to **designate Type III LAMIRDS defined as allowing “The intensification of development on lots containing isolated nonresidential uses or new development of isolated cottage industries and isolated small-scale businesses...”** (RCW 36.70A.070(5)(d)(iii)). There are a number of alternative directions to go with this option, guided by the Growth Management Hearings Board decisions and indicated by examples from other counties.

GMHB Cases – Type III LAMIRDS

Panesko v. Lewis County, WWGMHB Case No. 00-2-0031c (Final Decision & Order 3-5-01)

“LAMIRDS designated under (d)(ii) or (iii) are defined and bounded by ‘lots’ and thus LOB requirements are irrelevant.”

Diehl v. Mason County, WWGMHB Case No. 95-2-0023c (Compliance Order 11-12-03)

“The requirement that no new isolated small-scale business LAMIRD can be created one-half mile from any other LAMIRD or urban growth area and the numerical and acreage limitations that Criterion I imposes on the number of new small-scale isolated LAMIRDS that can be created help alleviate our concern that the sprawl reduction goal is being undermined.”

Whitaker v. Grant County, EWGMHB Case No. 99-1-0019 (Order on Compliance, 5-6-04)

“The provisions of RCW 36.70A.070(5)(d)(v) (existing area or existing use as of July 1, 1990) apply to all LAMIRDS whether designed under (d)(i) (ii), or (iii). Thus, for any ‘intensification’ allowed under Type II or Type III the designated use or area must have been in existence on July 1, 1990. This restriction does not apply to ‘new development’ authorized under Type II or Type III.”

Better Brinnon Coalition v. Jefferson County, WWGMHB Case No. 03-2-0007 (Compliance Order 6-23-04)

“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.”

“We find that the proposed new type (d)(iii) LAMIRD does not comply with RCW 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.”

Whitaker v. Grant County, EWGMHB Case No. 99-1-0019 (Second Order on Compliance, 11-1-04)

“For a Type III LAMIRD the Board must first determine whether the LAMIRD appropriately contains ‘isolated’ cottage industry and small-scale businesses. This phrase does not require that the cottage industry and small-scale business to be located in an isolated part of the county. It is however required that the cottage industry and small-scale business itself be isolated from other similar uses. The location adjacent to other LAMIRDs or allowing similar uses within it causes a LAMIRD to not meet the requirement for ‘isolated’ uses.”

“Side-by-side LAMIRDs can hardly be said to contain and reduce sprawl and limit growth.”

“If new Type 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.”

Hensley v. Snohomish County (Hensley VI), CPSGMHB Case No. 03-3-0009c (Final Decision & Order, 9-22-03)

“If a Type 3 LAMIRD allows ‘a new cottage industry or new small-scale business’ these new uses must be ‘isolated’.... The American Heritage Dictionary of the English Language, New College Edition, at 694, defines ‘isolate’ as “1. To separate from a group or whole and set apart. 2. To place in quarantine...4. To render free from external influence; insulate.” Can it be said that the County’s creation of this 9-acre LAMIRD would yield isolated uses – uses set apart, or free from external influence. This particular LAMIRD is located along an interstate highway running through the most urbanized, congested and densely populated area of the state. The location [I-5 and 300th St. NW] is far from being an isolated location where new small-scale business could be created without creating pressure for urbanization. It is hard for the Board to conceive of an isolated location along the I-5 corridor in the CPS region where a Type 3 LAMIRD would be an appropriate designation. Nonetheless, this 9-acre Type 3 LAMIRD is not isolated.”

Other County Examples – Type III LAMIRDs

Skagit County

Criteria for initial (existing) Type III designations “Rural Businesses”:

- Must have existed on June 1, 1997¹ as comm/ind uses (whether zoned as such or not);
- Granted comm/ind zoning appropriate to size & scale of rural uses through Comp Plan amendment process;
- Must not be similar in nature and location to other uses designated Rural Business;
- Must be compatible with the rural character of the area;
- Must not conflict with the conduct of natural resource activities of long-term commercial significance;
- Must be consistent with any adopted Community Plan for the area;
- Limited expansion and change of use opportunities.

Criteria for new or expanded Type III designations:

- Rezone process (for new);
- Limited uses (production, repair, services, manufacture, limited retail, ...);
- Expansions limited to 1,500 SF or 50%, whichever is less (with some exceptions);
- Change of use requires Hearing Examiner determination.

Mason County

Criteria for initial (existing) Type III designations:

- Commercial/industrial stand-alone use or a small group of associated uses;
- Limited area/limited ownerships per business;
- Only residential uses on premises are associated with private residences of owners/managers;
- Do not require urban services or induce urban growth;
- Boundaries can contain uses to reduce the potential for sprawl;
- Businesses have been in existence since July 1, 1990².

Criteria for new or expanded Type III designations:

- Rezone process (for new);
- Total acreage should not exceed acreage of built environment as it existed on July 1, 1990 unless: such boundaries would split property ownership;
- The request fits with industrial/commercial needs established in an adopted industrial needs study or an adopted economic development plan for the County;
- Additional acreage requested is less than a 10% increase over the July 1, 1990 boundary acreage;

¹ Skagit County was required to plan under the provisions of GMA on June 1, 1997, not July 1, 1990 as is the case with Whatcom County, according to RCW 36.70A.070(5)(d)(v).

² In Mason County, about a dozen properties had been developed since July 1, 1990 as commercial/industrial. They considered these as part of their Comp Plan update in 2005. Since these businesses were nonconforming due to actions of the county, they were granted appropriate zoning (rural comm/ind) and Type III LAMIRD designation. They were at times close to one another, but not close to other LAMIRDS or UGAs.

- New boundary and/or use would be compatible with existing rural uses;
- New boundary and/or use would not jeopardize open space and recreational areas identified in the County's open space plan;
- New boundary and/or use can meet CAO and other applicable environment protection regulations;
- New boundary and/or use will not require urban services or act as an inducer to low density sprawl development;
- New boundary and/or use will not require additional transportation facilities or reduce existing transportation facilities below an accepted level or rural service;
- New boundary and/or use can be made visually compatible with the surrounding rural area;
- New boundary and/or use avoids creating new nonconforming uses.

San Juan County

Criteria for Rural Industrial/Commercial designations (Type III):

- Lands with an existing or historical commitment to rural industrial/commercial uses;
- Direct access to public minor or major arterial;
- Land where on-site physical features can be used to protect surrounding lands from negative impacts;
- Uses limited to those which are most appropriately located in and are compatible with the rural environment;
- New residential development (except as accessory) is prohibited;
- Performance standards needed to ensure that allowed uses are consistent with the rural character of the area and minimize adverse environmental impacts.

Summarized Considerations for Whatcom County Approach to Type III LAMIRD designations

- Whether to differentiate between uses existing today, those existing on July 1, 1990, and new proposed uses; and if so, how?
- How to determine uses are contained and isolated?
- How (and to what level of detail) to ensure uses are visually compatible with surrounding area, conform to rural character, and are similar to size, scale, and intensity of uses in surrounding area?
- Whether to review the county as a whole or only affected areas per GMHB order?

- (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 (5);
- (ii) **[Type II LAMIRD]** 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) **[Type III LAMIRD]** 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).

- (e) Exception. This subsection shall not be interpreted to permit in the rural area a major industrial development or a master planned resort unless otherwise specifically permitted under RCW 36.70A.360 and 36.70A.365.

Direction from Planning Commission April 23, 2009

1. What is rural character?

Outside of LAMIRDs (within affected areas), zoning should have a 10 acre minimum lot size.
Inside LAMIRDs are mixed use.

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

Option B. Designate Type I LAMIRDs in only the affected areas where infill is most appropriate

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

Option A. Do not designate LAMIRDs adjacent to UGAs; designate areas as Rural or consider for inclusion within Urban Growth Area

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

Option B. Evaluate on an area-wide basis to determine whether an area is appropriate for infill and should be designated a Type I LAMIRD

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

Option A. Consider existing public utility services – particularly sewer – as a criterion for designating an area a Type I LAMIRD (but not the sole criterion).

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

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

7. How should the County change the zoning for residential zones outside the Type I LAMIRDs within the affected areas?

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

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

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

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

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

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

No