



## 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

**DATE:** July 16, 2009

**SUBJECT:** Rural Element Policy Update

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On June 23, 2009 PDS staff published proposed draft amendments to the Whatcom County Comprehensive Plan and zoning code. That initial draft was based on the requirements of GMA, public involvement, and direction given by the Planning Commission at its April 23 and May 14 meetings.

The draft has prompted a large volume of comments, both in writing and in oral testimony given at the July 9 Planning Commission meeting. At the end of that meeting the Planning Commission closed the public hearing but voted to leave the record open for written public comment until the beginning of its July 23 work session. PDS staff continues to post all written comments on the County web site.<sup>1</sup> Staff is preparing an index of public comments on the draft proposal, sorted geographically by affected area. The draft index, reflecting comments received so far, is attached. The complete index will be distributed to the Planning Commission at the July 23 meeting.

While the comments have been varied, several common themes have emerged. Below is a list of general issues that have been identified, with questions on how the Planning Commission would direct staff to address these issues in the next draft of the proposed amendments. This is intended to form a basis of discussion at the Planning Commission's July 23 work session. From the discussion at this meeting staff hopes to gain direction on possible changes to the draft. Staff will then analyze the direction in the context of GMA requirements, hearings board and court cases, and public comments to present options or draft changes for the Planning Commission's August 13 work session.

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<sup>1</sup> <http://www.whatcomcounty.us/pds/plan/long/projects/lamird/updateprocess.jsp>

## **1. Nonconforming status.**

Many comments have centered on the hardships that may be created if businesses are rezoned to a less intensive commercial or industrial zone (within LAMIRDs) or to a rural zone (outside LAMIRDs). Many are concerned about potential loss of property value as a result of reduced development options, and about increased difficulties with obtaining financing in an already tight credit environment. Whatcom County Code 20.83 allows nonconforming uses to continue to operate legally – even expand or change uses with a conditional use permit. But nonconforming status would not allow the range of uses permitted under the current zoning and would require the nonconforming use to lapse if out of operation for more than one year. Should the proposed amendments go farther towards minimizing creation of nonconforming uses? More specifically:

### **A. Commercial zoning within LAMIRDs.**

There are many businesses that now operate in General Commercial (GC), Gateway Industrial (GI), Light Impact Industrial (LII), and General Manufacturing (GM) zones but would, under the current draft proposal, be rezoned to less intensive commercial zones or the newly-proposed Rural Industrial-Manufacturing (RIM) zone, making some uses -- or at least the size and scale of those uses -- nonconforming. On April 23 the Planning Commission directed staff to draft the proposed zoning changes with the more intensive zones being replaced by zones more in keeping with rural areas, as opposed to leaving those more intensive ones in place and modifying their permitted uses in rural zones (Question 9 on the March 26 memorandum). Should this issue be revisited to consider retaining existing commercial zoning within LAMIRDs?

### **B. Size and spacing of Rural Business LAMIRDs**

Comments have also centered on the hardships of existing businesses that would be left out of LAMIRD boundaries and would operate as nonconforming uses in Rural zones. Should LAMIRD designation and boundary criteria be revisited to include more business lots in LAMIRDs?

## **2. Water service as criteria for determining Type I LAMIRD boundaries**

Residents in Glacier and other areas have commented that Type I LAMIRD boundaries should include areas where development had not occurred by 1990, but water service was in place. Hearings boards have found that “built environment,” a major criterion for designating a Type I LAMIRD, refers to improvements made above and below ground, but also that the existence of water service cannot be the sole determining factor. To what extent should LAMIRD boundaries be expanded to include areas that had water service but were otherwise undeveloped in 1990?

## **3. Rural residential density outside LAMIRDs**

On April 23 the Planning Commission directed staff to draft the proposed zoning maps to reflect a maximum residential density of one unit per ten acres. Because most of the affected areas have been zoned for more intensive densities for many years, a very small minority of lots in these areas is larger than five acres. In most areas, the adjacent rural zoning outside the affected area has a five-acre density. Should the ten-acre density for affected areas outside LAMIRDs be revisited?

#### **4. Residential LAMIRDs**

On April 23 the Planning Commission directed staff to propose Rural Center Type I LAMIRDs in areas that had both commercial and residential uses in 1990, and not in areas that were purely residential. This would leave many small-lot subdivisions, such as those in the Cain Lake and Sandy Point areas, with zoning that requires large minimum lot sizes. The existing lot sizes would be nonconforming, though the residential uses would conform with the permitted uses in the zone. Several small-lot subdivisions with nonconforming lot sizes already exist in the R-5A zones. Should the option of including small-lot subdivisions in Type I LAMIRDs be revisited?

If you have questions regarding these materials, please call Gary Davis at 676-6707 ext. 50246.

Attachments:

Public Comment Index (as of July 16)

Notes on Whatcom County Rural Planning and Zoning Timeline (Jean Melious)