

From: Gary Davis
To: Rural Element
Date: 7/17/2009 4:16 PM
Subject: Whatcom County Rural Element Update - Planning Commission Work Session July 23
Attachments: 20090716-plncom-staffmemo-3p.pdf; 20090716-plncom-melious-5p.pdf; 20090717-pubcom-commentstopc-14p.pdf

Good afternoon,

The Planning Commission will hold a work session on the proposed Rural Element Update amendments on Thursday, July 23, 6:30 pm at the Whatcom County Courthouse Council Chambers, 311 Grand, Bellingham. The record is open for written comments on the proposed draft up until the beginning of the meeting. Staff has prepared a brief memorandum identifying major main themes in the public comments received to date, and posing discussion questions on how to address the comments in a future draft. In addition, Planning Commission Chair Jean Melious has prepared a timeline of the recent legal history of rural planning in Whatcom County. Staff has also created an index to public comments received as of yesterday, listing comments by geographic area - please note the topics of the comments are very briefly paraphrased for reference purposes and are not meant to represent the full comments. The full written comments are recorded on the County web site at <http://www.whatcomcounty.us/pds/plan/long/projects/lamird/updateprocess.jsp> The index will be updated to include additional comments received between today and the Thursday meeting. These materials will be discussed at Thursday's work session and are attached.

As always, please let me know if you have questions or comments concerning this process.

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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

DATE: July 16, 2009

SUBJECT: Rural Element Policy Update

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.¹ 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.

¹ <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)

To: Whatcom County Planning Commission
From: Jean Melious
Date: July 16, 2009
Re: Whatcom County Rural Planning and Zoning Timeline; State Law Planning and Zoning

I prepared these notes for my own use in for the work session on July 23 and thought that some of you might find them interesting or useful, so I'm passing them on. With two exceptions, I have only quoted the words of others, with sources identified so you can review them for accuracy and context if you want. The lawyers among us will notice that the cites are raggedy, but the essential information is there.

So you are forewarned, the exceptions to "only using the words of others" are: 1. Footnote 14, where I tried to figure out what the *Wells v. WWGMHB* decision actually meant (this only matters in relation to an issue before the Supreme Court relating to res judicata and collateral estoppel and can easily be skipped), and 2. The description of the issues before the Supreme Court, which I paraphrased. If you want to read the briefs submitted to the Supreme Court by Gold Star and Futurewise, they are available at http://www.courts.wa.gov/appellate_trial_courts/coaBriefs/index.cfm?fa=coaBriefs.ScHome&courtId=A08. Search for case number 80810-4.

I also copied and pasted the GMA's definition of "rural character," just so I'd have it handy.. We have this information in other materials from the County as well.

Whatcom County Rural Planning and Zoning Timeline

1. 1994 INTERIM URBAN GROWTH AREA ORDINANCE (IUGA)

On **May 24, 1994**, Whatcom County adopted an IUGA Ordinance. The deadline provided for by the GMA for adoption of the IUGA was October 1, 1993.¹

On **November 9, 1994**, the Western Washington Growth Management Hearings Board (WWGMHB) held that the County's ordinance was not in compliance with the Growth Management Act (GMA). Part of the ordinance found not in compliance was the County's adoption of "existing zoning" to fulfill the GMA requirement to prohibit urban growth outside of properly established IUGA boundaries.²

In its "Third Compliance Order," dated **March 29, 1996**, the GMHB found, *inter alia*, that:

- "Whatcom County's allowance of new urban growth outside the IUGA boundaries does not comply with the GMA;

¹ WWGMHB, Whatcom Env'tl. Council v. Whatcom County, Third Compliance Order, March 29, 1996 (<http://www.gmhb.wa.gov/western/decisions/1994/94-093rdcomporder.htm>)

² *Id.*

- “Under the record in this case, Whatcom County’s allowance of densities of 1 du/2 ac and higher (more intense) in areas outside properly established IUGAs substantially interferes with the goals of the GMA”; and
- “The allowance of new urban commercial and new urban industrial growth outside properly established IUGAs substantially interferes with the goals of the Act and is invalid. . .”³

2. **MAY 1997 COMPREHENSIVE PLAN AND DEVELOPMENT REGULATIONS**

“Whatcom County did not revise its interim ordinances and regulations in response to these determinations of invalidity. Rather, **in May 1997**, Whatcom County adopted a new comprehensive plan and ‘associated development regulations.’”⁴

The LAMIRD criteria were added to state law two months later:

“[The LAMIRD] criteria were added to the GMA two months after Whatcom County adopted its comprehensive plan in 1997. Whatcom County conceded before the Board that its terminology does not “mirror state law,” and that although it was aware of the pending legislative amendments, it did not consider these criteria in defining its designations for developed rural areas and did not attempt to analyze the logical outer boundaries of LAMIRD areas under RCW 36.70A.070(5)(d). The county conceded that some of its LAMIRD boundaries include “vast amounts of undeveloped land””⁵

In **June 1997** –one month before the state adopted its LAMIRD criteria – the County “filed a motion requesting the Board to rescind the determinations of invalidity based on the new comprehensive plan and associated regulations. The Board modified but did not rescind its previous findings of invalidity.”⁶

The GMHB modification, issued on **July 25, 1997** (two days before the effective date of the LAMIRD provisions on July 27, 1997) stated that “As to the rural areas (94-2-0008), the changes that were made still allow new urban growth outside UGAs. As noted in our earlier order, RCW 36.70A.110 absolutely prohibits such urban growth.”⁷ The Hearings Board addressed several areas specifically:

“The Guide Meridian and gateway industrial designations were changed to eliminate the IUGA designation and identify each as “regional transportation corridors.” The necessity of further study of these two areas was acknowledged.

³ Id.

⁴ *Wells v. WWGMHB*, 100 Wash. App. 657, 663 (2000).

⁵ *Gold Star Resorts v. Futurewise*, 140 Wash.App. 378, 392 (2007).

⁶ *Wells v. WWGMHB*, 100 Wash. App. 657, 663 (2000).

⁷ *Whatcom Environmental Council v. Whatcom County*, Order Re Invalidity (July 25, 1997) (http://www.gmhb.wa.gov/western/decisions/1994/94-09_order_re_invalid.htm).

The allowance of more intense development was based upon the rationale of existing development. In the gateway industrial designation, examination of the maps in Exhibits J-1 through J-12 demonstrated that most of the proposed corridor was outside existing development. We have consistently said that existing development alone does not justify new urban growth outside of UGAs.”⁸

“In **July 1997**, the Board received petitions from four parties, including Wells, requesting review of the new comprehensive plan and development regulations. The Board consolidated these petitions into what we refer to as the “*Wells* case.”⁹

“After extensive briefing and a hearing, the Board issued a Final Decision and Order (**January 16, 1998**). The Board rescinded some of its earlier determinations of invalidity but continued to find three urban growth areas, all but two of the designated rural areas, and various zoning regulations invalid.”¹⁰

“Whatcom County, Birch Bay Water & Sewer District, and Whatcom County Water & Sewer District No. 13 each petitioned for review of the Board's final order in Whatcom County Superior Court.”¹¹

“Following trial, the [Whatcom County Superior] court issued an order remanding the case to the Board. . . .The court remanded the case to the Board with instructions to reevaluate the standing of various parties and to apply a presumption of validity to the comprehensive plan and development regulations. It also issued an order lifting the Board's determinations of invalidity.”¹²

The state department of Commerce, Trade, and Economic Development (“CTED”), Nathan Kronenberg, and Sherilyn Wells appealed the Whatcom County Superior Court's order remanding the case.¹³

On **April 10, 2000**, in *Wells v. WWGMHB*, 100 Wash. App. 657 (2000) the Court of Appeals dismissed the petition for lack of standing. It affirmed the Whatcom County Superior Court's order reversing the Board's Final Decision and Order and remanding the case to the Board.¹⁴

⁸ *Id.*

⁹ *Wells v. WWGMHB*, 100 Wash. App. 657, 663 (2000).

¹⁰ *Id.*, referring to *Wells v. Whatcom County* 97-2-0030 (Final Decision and Order, 1-16-98).

¹¹ *Wells v. WWGMHB*, 100 Wash. App. 657, 664-65 (2000).

¹² *Id.* at 665.

¹³ *Id.* at 665-66.

¹⁴ While the appellate court allowed the remand to stand because “no party has raised any persuasive challenge to the substantive portions of the decision,” the remand would not have had any effect in light of the remainder of the appellate court’s decision. The court stated that the Board’s finding of invalidity was not relevant to the proceedings “because Whatcom County adopted a new comprehensive plan and regulations. The new plan and regulations supercede the interim ordinances, thus **a new petition challenging the plan is necessary to obtain review by the Board**” *Id.* at 669-670 (emphasis added). It does not appear that there was any such “new petition” to review the 1997 ordinances. Therefore, the Superior Court’s requirement to “apply a presumption of validity” to the Hearings Boards’ examination of

Gold Star’s briefing before the Supreme Court states that “On remand to the Board, there was no further challenge to the LAMIRDs, and they were upheld by the Board,” citing “3/28/01 Order, *Whatcom County v. WWGMHB*, WWGMHB No. 97-2-0030.”¹⁵ The referenced Order is not available on the WWGMHB’s web site.

3. JANUARY 2005 COMPREHENSIVE PLAN (7-YEAR REVIEW)

“Whatcom County completed its [seven year review of the Comprehensive Plan] in **January 2005**, and found that its LAMIRD areas ‘have not experienced significant change, nor has additional information been obtained regarding such areas since the adoption of the 1997 Whatcom County Comprehensive Plan that warrant further review and update of the Comprehensive Plan.’ The county made no revisions to its LAMIRD criteria or to the mapped boundaries of the areas.”¹⁶

On **March 26, 2005**, Futurewise filed a Petition for Review with the WWGMHB. On **June 15, 2005**, the WWGMHB “determined that the update requirements of RCW 36.70A.130 impose an obligation upon the County to revise its comprehensive plan to comply with the GMA, and that the County may not refuse to revise noncompliant plan provisions on the basis that it adopted them some time ago.”¹⁷

In its **September 20, 2005** Final Order, the GMHB stated:

In this decision, we find that the County has failed to update its comprehensive plan and revise the portions of its comprehensive plan that designate and map areas of more intensive rural development as required by RCW 36.70A.130 and RCW 36.70A.070(5)(d). We find that the County has allowed areas of more intensive development in the rural areas without limiting and containing them in compliance with RCW 36.70A.070(5)(d). However, we find that the decision on where to draw logical outer boundaries for those more intensive rural areas must be made by the County. Since the County has not yet exercised its discretion to adopt limited areas of more intensive rural development (LAMIRDs) using the statutory criteria, the Board cannot determine whether those boundaries are compliant with the statute. If the County decides to establish LAMIRDs, the record must show what choices the County made in drawing logical outer boundaries and otherwise ensuring that they will “minimize and contain” the more intensive rural development. RCW 36.70A.070(5)(d)(iv).

We find that the rural residential densities allowed in the RR1 zone (1 dwelling unit per acre); RR2 zone (2 dwelling units per acre); RR3 zone (3 dwelling units

validity would not have had any effect, because the 1997 plan and regulations were the relevant regulations and had not been challenged.

¹⁵ *Futurewise v. Gold Star Resorts*, Supp. Brief of Petitioner Gold Star (Jan. 16, 2009), p. 4.

¹⁶ *Gold Star Resorts v. Futurewise*, 140 Wash.App. 378, 383-84 (2007).

¹⁷ *Futurewise v. Whatcom County*, WWGMHB (No. 05-2-0013), Final Decision and Order (Sept. 20, 2005) (<http://www.gmhb.wa.gov/western/decisions/2005/05-2-0013FuturewiseFDO20050920.pdf>).

per acre); EI zone (3 dwelling units per acre); R2A zone (1 dwelling unit per 2 acres); and RRI zone (1 dwelling unit per 3 acres) are not rural densities but suburban densities encouraging sprawl. Except within properly designated LAMIRDs, such intensive residential densities in the rural area fail to comply with RCW 36.70A.070(5)(b) and 36.70A.020(2).

As to the challenge to the UR3 zone, we find that the County has properly reduced the urban residential densities in the Lake Whatcom Watershed due to environmental considerations. We also find that the use of the UR3 zone in the area adjoining the airport is a compliant rationale for reducing the urban residential density allowed in that area to 3 dwelling units per acre. Apart from the Lake Whatcom Watershed and the UR3 zone shown on Map 2: Airport/Marine Drive Mixed Use in Exhibit 6, the County's UR3 zoning designations allow less-than-urban densities in urban areas without justification or rationale. As a result, they fail to comply with RCW 36.70A.110.¹⁸

"Gold Star, but not the county, appealed to superior court. [The County did not participate in any of the appeals of the GMGB ruling: Superior Court, Court of Appeals, or Supreme Court.] The superior court reversed the majority of the Board's rulings, holding that the review statute does not require that comprehensive plans be amended to comply with current GMA requirements, and also holding that the rural density issue had been decided by previous litigation in this court. The superior court also ruled that the Board exceeded its authority or erroneously applied the law by adopting a "bright line rule" in its analysis of the rural zoning challenge."¹⁹

Futurewise appealed to the Court of Appeals. On **August 27, 2007**, the Court of Appeals reversed every holding of the Superior Court and affirmed the WWGMHB's remand to the County to consider state law governing LAMIRDs and rural zoning. With respect to the issue of whether the County's plan and zoning complied with state law, the court held:

"In short, the county's presentation to the Board confirmed that the county did not apply RCW 36.70A.070(5)(d) in drawing the boundaries for the LAMIRDs and that its process resulted in LAMIRD boundaries the statute does not allow. County action is entitled to a presumption of validity, but here the county admitted that its criteria did not match the statute nor produce compliant results. This alone is evidence sufficient to support the Board's remand for review of the LAMIRDs.

Additionally, the Board was plainly correct in finding the county provisions noncompliant. First, none limits the LAMIRD areas to development *existing* as of July 1990. Three provisions (including the one Gold Star seeks to preserve) specifically anticipate future development: . . ."²⁰

¹⁸ *Id.*

¹⁹ *Gold Star Resorts v. Futurewise*, 140 Wash.App. 378, 84 (2007).

²⁰ *Id.* at 393-94.

On **September 25, 2007**, Gold Star petitioned the Washington State Supreme Court for review of the Court of Appeal's decision. On **November 6, 2008**, the Court agreed to review the two issues raised by Gold Star's petition and two issues raised by Futurewise's answer. The Court agreed to review:

- Whether the Whatcom County Superior Court's 1998 ruling, overturning the WWGMHB finding of invalidity, prevents Futurewise from litigating the issue of the County's compliance with the GMA (res judicata/collateral estoppel) (raised by Gold Star).
 - If the Court rules in Gold Star's favor, the County would never be subject to litigation if it chose not to revise its Comp Plan or zoning to comply with state law on LAMIRDs, and it could allow its current Comp Plan and zoning to stand (although it would have the discretion to revise the plan and zoning). If the Court holds that the 1998 ruling does not constitute res judicata and does not collaterally estop Futurewise's challenge, the challenge would be allowed to proceed.
- Whether the GMA's seven-year review requirements require local governments to review and amend comprehensive plans in order to comply with GMA provisions enacted after adoption of the previous comprehensive plan (raised by Futurewise).²¹
- Whether the WWGMHB's Order is invalid because it was based on "bright line" criteria for rural densities (raised by Goldstar);
- Whether "development as of July 1990," for purposes of establishing LAMIRDs, is limited to "development" or if it includes vested rights (raised by Futurewise).

State Law Definition of Rural Character (RCW 36.70A.030(15))

(15) "Rural character" refers to the patterns of land use and development established by a county in the rural element of its comprehensive plan:

(a) In which open space, the natural landscape, and vegetation predominate over the built environment;

(b) That foster traditional rural lifestyles, rural-based economies, and opportunities to both live and work in rural areas;

²¹ Futurewise originally contended that the 7-year review required local governments to amend any portion of the Plan that did not comply with the GMA. The State Supreme Court subsequently decided that only the portions of the plan that were affected by changes in state law were required to be revised during the review. *Thurston County v. WWGMHB*, 164 Wn.2d 329 (2008). Futurewise's argument then focused specifically on the changes in the law relating to LAMIRDs in its argument.

- (c) That provide visual landscapes that are traditionally found in rural areas and communities;
- (d) That are compatible with the use of the land by wildlife and for fish and wildlife habitat;
- (e) That reduce the inappropriate conversion of undeveloped land into sprawling, low-density development;
- (f) That generally do not require the extension of urban governmental services; and
- (g) That are consistent with the protection of natural surface water flows and groundwater and surface water recharge and discharge areas.

Index of Comments Rural Element Update (received between June 23 and July 16, 2009)

Note: Topics of comments have been paraphrased for reference only – please refer to the record for full comments

Location - Topic of comment	Author – Date Received	Notes
ACME (proposed as Rural Center)		
Acme LAMIRD needs to be larger	Garry Reid - July 9, 2009 @ Public Hearing	
AXTON & GUIDE MERIDIAN (proposed as Rural Business, Type III)		
Does not support proposal.	Dana Johnson – July 13, 2009	
Does not support proposal.	Diana Johnson – July 13, 2009	
Guide Trading Post should retain GC commercial zoning. Guide Meridian not a residential area.	Sandy Lankhaar – July 13, 2009	
Guide Trading Post and Hilltop Restaurant should be included in LAMIRD because both in existence before 1990. Creating non conforming uses will hinder financing from banks. Policy 2A-3 the Guide Meridian in a major is a major highway, logical place for business, not residential or agriculture. Policy 2A-4, GC is best use of land in this area. Policy 2A-5 downzone does not reflect this goal.	Adams/Kilpatrick – July 14, 2009	
Laurel Hills Business Park GC zoning should remain. Commercial landlord – tenant issue with zoning and non-conforming issues. RIM zoning is not appropriate for this area.	Steve Moore - July 9, 2009 @ Public Hearing	
BIRCH BAY-LYNDEN & I-5 (proposed as Rural Business, Type III)		

Area serves as a gateway to Birch Bay and a very important intersection. Wants to keep current zoning (GI).	Goldstar Resorts – July 9, 2009	
Owns 6 acres with GI zoning outside LAMIRD. Retain GI zoning.	Maryann Philipene – July 9, 2009 @ Public Hearing	
Discusses Supreme Court Cases, urges county to wait, concerned about non-conforming, concerned about the public process	Jack Swanson - July 9, 2009 @ Public Hearing	
GI area a major transportation corridor. Wait for Supreme Court decision. Compliance should take into account lifestyle, economics, etc. Square footage of the existing grocery store will be limited under new zoning, like to see 40,000 sq.ft.	David Moody - July 9, 2009 @ Public Hearing	
Birch Bay Square – vendors wouldn't be permitted under proposed zoning, would put Birch Bay Square out of business	Adam Ware - July 9, 2009 @ Public Hearing	
Owns property on east side of freeway, transportation corridor, gas pipeline etc. Leave existing zoning.	Bill Grant - July 9, 2009 @ Public Hearing	
Owns property on east side of I-5 currently zoned GI proposed R10A. Wants to develop “full service travel center,” not possible with proposal	Stuart Pennington - July 9, 2009 @ Public Hearing	
BLUE CANYON (proposed as Rural Business, Type III)		
CUSTER (proposed as Rural Center)		
DEMING (proposed as Rural Center)		

GOOSEBERRY POINT (proposed as Rural Business, Type I)		
GLACIER (proposed as Rural Center)		
Does not support current proposal for Glacier, it greatly reduces the much needed commercial land which reduces the affordable housing. Proposed LAMIRD doesn't have a logical outer boundary, there is additional built environment as of 1990 with the Glacier Water District water system. Suggests including all of "Miller's Addition" (currently STC), square off boundary to the west of this area by including Copp's parcel.	Richard Russell – July 9, 2009	
Glacier LAMIRD is an irregular boundary, proposed zoning does not allow for the needs or future needs of community. Should consider economic development. Water lines in area since 1978 & considered as built environment.	Richard Russell - July 9, 2009 @ Public Hearing	
Owens RC zoning not included in proposed LAMIRD. Include as much RC zoning in Glacier as possible; services are needed in this area. Need case by case analysis of each area.	Joseph Garcia - July 9, 2009 @ Public Hearing	
Area needs all the commercial zoning possible. Area very constrained by natural features. Consider water lines as built environment	Russell Pritchett - July 9, 2009 @ Public Hearing	
Glacier needs as much RC zoning as possible, keep Glacier unique and viable.	Brady Webb - July 9, 2009 @ Public Hearing	
Observe what the built environment was and include water district as built environment.	Greg Wielinga - July 9, 2009 @ Public Hearing	
Provides map Glacier Water District transmission lines and describes suggested LAMIRD boundary.	Glacier Water District – July 16, 2009	
GUIDE MERIDIAN BORDER CROSSING (proposed as Rural Business, Type I)		

HINOTES CORNER (proposed as Rural Center)		
Property owner on SE corner of Pole & Hannegan (GC zoning). Area is not rural, has the potential to be urban level due to its location on a major intersection. Lack of public process. County needs to address nonconforming issue.	Patrick Timmins – July 13, 2009	
Owns property GC and proposed STC, wants to keep GC. Concerned with the limitations new zoning creates. Concern over the investment in forming the Hinotes Corner Fire Protection District that installs infrastructure such as underground lines and hydrants in order to build commercial buildings.	Dale Vander Giessen – July 14, 2009	
Purchased property in 1990 as GC – area is 75% built out, planned multi family, under proposal only 1 unit allowed.	Patrick Timmins - July 9, 2009 @ Public Hearing	
No multi family residential in proposed STC. Need more development potential in Rural Center if development potential is reduced in rural areas.	Truman Sterk - July 9, 2009 @ Public Hearing	
KENDALL (proposed as Rural Center)		
Proposed LAMIRD is oversized and contain areas that shouldn't be in LAMIRDs	Cathy Lehman - July 9, 2009 @ Public Hearing	
LAUREL (proposed as Rural Center)		
Krause Manufacturing should retain GM zoning	Darrell Krause - July 9, 2009 @ Public Hearing	
MAPLE FALLS (proposed as Rural Center)		

NORTH LAKE SAMISH & I-5 (proposed as Rural Business, Type III)		
NUGENTS CORNER (proposed as Rural Business, Type I)		
Support for retaining the small commercial center of Nugents Corner. This area serves the greater rural area.	Randal Ellis DMD – July 3, 2009	
POINT ROBERTS (proposed as Rural Center)		
GC change to a “toned down” GC or to STC, the current proposal is to NC.	Jerry White – June 29, 2009	
Supports all of Point Roberts as one LAMIRD	Genine McCurdy – June 30, 2009	
Three separate one acre parcels at border crossing zoned GC & going to NC, too restrictive for what is currently operating, possible go to STC or RC.	Ruby Gibson White – June 26, 2009	
Submitted several pictures of the built environment. No written comment.	Gordon Nielson – July 9, 2009	
GC property owner, proposed for NC. Rather have STC, wants all current uses to remain conforming.	Gordon Nielson - July 9, 2009 @ Public Hearing	
Proposed LAMIRD is oversized and contain areas that shouldn't be in LAMIRDs	Cathy Lehman - July 9, 2009 @ Public Hearing	
POLE & GUIDE MERIDIAN (proposed as Rural Business, Type III)		
Consider as Type 1 LAMIRD & increase boundary (RB or RC?)		
Relief from split zoning, include entire parcel in RIM. Needs for warehousing, packing processing, shipping facilities (buildings up to 100,000 sqft)	Ismael Gomberoff - July 3, 2009	

Include Elder and Vander Yacht properties in a Type I LAMIRD. Nonconforming status would create hardships.	Brownlie/Evans/Wolf/Lee - June 30, 2009	
Generally supports intent of proposal. Inca Gold Brand Company needs warehouse facilities. Consider allowing RIM to permit facilities up to 100,000 sq.ft. Relief from split zoning of property. Would like to see the parcel south of this (between the gas station and Artistic Farms) to also be considered for the LAMIRD/RIM zoning.	Ismael Gomberoff – July 3, 2009	
Midway Properties used commercial since 1970's, should be included in a LAMIRD	Simon Petree - July 9, 2009 @ Public Hearing	
Must recognize existing development in rural areas. Keep commercial zoning on Guide. Allow continuance of existing business. Spacing requirements are a hindrance. Impact of commercial changes must be studied	Heather Wolfe - July 9, 2009 @ Public Hearing	
PORTAL WAY NORTH (proposed as Rural Business, Type III)		
Owns and operates trucking company on 5 acres, with proposed changes, will not be able to expand operations. Land is well suited for this type of business, not for residential uses.	Charles Schamel – July 15, 2009	
Consider the greenhouse operation, possible RIM designation.	Lesa Starkenburg - July 9, 2009 @ Public Hearing	
Owns & operates TC Trans transportation operation. Has been in operation for 1 year and wants to expand, not possible under current proposal.	Charles Schamel - July 9, 2009 @ Public Hearing	
SLATER & ELDER (proposed as Rural Business, Type III)		
SMITH & GUIDE MERIDIAN (proposed as Rural Business, Type I)		

SUDDEN VALLEY (proposed as Rural Center)		
Keep “Airport Site” R5A and include it in the LAMIRD. Bellingham School District has been planning to build a school on this site; not including it in a LAMIRD will create serious problems in finishing the proposal.	Ron Cowan – July 10, 2009	
Retain NC zoning in Sudden Valley	Roger Euphils - July 9, 2009 @ Public Hearing	
Supports areas adjacent to Bellingham’s UGA to be rezoned to a rural density; strong support for the zoning changes that would reduce the allowed densities in the North Shore, South Bay, and Sudden Valley within the Lake Whatcom Watershed to R10A	City of Bellingham – July 6, 2009	
VAN WYCK (proposed as Rural Business, Type I)		
VAN ZANDT (proposed as Rural Business, Type III)		
WELCOME (proposed as Rural Business, Type III)		
WISER LAKE (proposed as Rural Business, Type III)		
Consider Wisser Lake Storage 7388 Guide Meridian as Type 1 LAMIRD	Ron De Boer – July 1, 2009 Keith Bouma – July 1,	

	2009	
131 E. 74 th Lane & 7372 Guide Meridian - Consider including in LAMIRD. Currently zoned for light industrial and adjacent GC parcel, operating a small contracting business from these locations. Address:	Gregg Wielenga – July 7, 2009; July 8, 2009	
Concerns with existing business wanting to expand, financing and insurance issues. There is no demand for residential land on the newly expanded Guide Meridian.	Kieth Bouma – July 13, 2009	
RURAL DESIGNATIONS (proposed as Rural, no LAMIRD)		
Emerald Lake		
Concerned about losing development potential on 8.15 acre parcel	Kim Pierce – June 28, 2009	
Does not support the proposal. Keep existing zoning. Have sewer be just as important as water service.	Paul Isaacson – July 9, 2009	
Owns 190 acres of RR2 proposed RR10A currently undeveloped, will lose financing if proposal goes through	Paul Isaacson - July 9, 2009 @ Public Hearing	
Lake Samish Supports County's proposal. Would like to see surrounding R5A changed to R10A.	Mark Herrenkohl – July 10, 2009	
North Shore Support proposal. Area should be kept rural in nature and this proposal is preventing further subdivision.	Pratum/ Leviton – July 9, 2009	
Supports areas adjacent to Bellingham's UGA to be rezoned to a rural density; strong support for the zoning changes that would reduce the allowed densities in the North Shore, South Bay, and Sudden Valley within the Lake Whatcom Watershed to R10A	City of Bellingham – July 6, 2009	
Chuckanut:	Tom Vowiler - July 9,	

Supports proposal in general and for the Chuckanut area. County needs to get into compliance with the GMA. Minimize LAMIRDS, create no loop holes and have stringent review for LAMIRDS, consider environmental overlays	2009 @ Public Hearing	
Fort Bellingham Owns and farms 36 acres in Fort Bellingham zoned RR1; proposed change to RR10A would devalue the property.	Jerry and Nellie Johnson – July 13, 2009	
Sandy Point Retain RR3 zoning. Does not support proposal	Ron Jepson - July 9, 2009 @ Public Hearing	
South Bay Supports areas adjacent to Bellingham’s UGA to be rezoned to a rural density; strong support for the zoning changes that would reduce the allowed densities in the North Shore, South Bay, and Sudden Valley within the Lake Whatcom Watershed to R10A	City of Bellingham – July 6, 2009	
Owns several parcels currently zoned R2A, no relief from lot consolidation in Lake Whatcom Watershed.	Diane Ramsey - July 9, 2009 @ Public Hearing	
North Bellingham RR1 existing zoning, doesn’t want to be in Ferndale’s UGA. Maintain existing character.	Janice Schuch - July 9, 2009 @ Public Hearing	
GENERAL POLICY & ZONING COMMENTS		
Proposed RIM chapter: 20.69.300 - .301 & .302 may not allow for big enough facilities (allow facilities up to 100,000 sqft)	Ismael Gomberoff - July 3, 2009	
Proposed RIM chapter: 20.69.050 allow: automobile sales, repair shops & storage; machinery sales, repair shops & storage. Removal of Light Impact Industrial (LII) from rural lands creates loss of jobs and empty buildings.	Sebulon Were – June 29, 2009	
Recommend low residential density (no more than one house every five/ten acres); Tightly define and limit LAMIRDS and exclude undeveloped areas; Maintain clear distinctions and separation between urban and rural areas	Eric Hirst – July 7, 2009	
Supports preserving farmland and preventing parcelization of	S. Gillfillin – July 4, 2009	

rural lands		
Concerns with: haste in developing LAMIRDs before Gold Star case is heard by Supreme court, proposed LAMIRD boundaries, impacts of downzoning, need more relevant legal information, public process, effect on economic viability, needs more time for analysis	Building Industry Association of Whatcom County – July 9, 2009	
There is no specific deadline. There is no prescribed outcome required from WA or GMHB. A downzone does not address the built environment, creates nonconforming uses and sizes).	Starckenburg-Kroontje – July 13, 2009	
Proposal creates many non-conforming uses, which is not good public policy and have adverse economic repercussions. Birch Bay Square and surrounding parcels is used as example to illustrate the lack of regard for the as built environment and investments made.	Bill Henshaw – July 14, 2009	
Supports the proposal. County cannot indemnify the public against the normal risks associated with speculation. Nonconforming uses are essential to acknowledge problems with existing development and maintaining existing rights of property owners. Rural Land-Introduction of Comp Plan should be clear that rural lands include forestry and agriculture only when determined not to have long term commercial value. Concerned about language in comp plan that refers to “parks, trails, and open space.” Policy Goal 2FF (water & sewer) should address manure management programs and access of livestock to rivers and streams. Goal 2NN (Lake Whatcom Watershed should reference best available science and TMDL requirements.	Wendy Harris – July 10, 2009	
Supports proposal, policies look to future, not for making real estate investments. Citizens of Whatcom County show in polls how much they want to preserve rural lands.	Dan Warner – July 10, 2009	
Process is rushed and creating more sprawl. Lack of proper information to make decisions on this proposal.	Public Policy Perspectives – July 9, 2009	
Supports preserving rural lands but does not support this proposal. Process is happening too fast with no public	Alan MacPhee – July 15, 2009	

notification. Proposal does not reflect the current business.		
Does not support proposal.	Russell Unrein – July 9, 2009	
Does not support proposal.	Jeff Baker – July 15, 2009	
Does not support proposal.	Randy Cross – July 15, 2009	
Does not support proposal.	Carol Henshaw – July 16, 2009	
Does not support proposal.	Whatcom Republican Party – July 15, 2009	
Does not support proposal.	Carol Quinn – July 15, 2009	
Does not support proposal. Requesting an EIS.	Larry Helm – July 14, 2009	
No timeline or mandate for County to act. There is no prescribed outcome from the State, nonconforming has huge impact, consider the as-built environment.	Lesa Starckenburg - July 9, 2009 @ Public Hearing	
Supports proposal. Need to protect from sprawling development, already proper zoning for enough new homes in rural area. Need for clear boundaries between urban and rural	Eric Hurst - July 9, 2009 @ Public Hearing	
Represents water districts and associations (Sandy Point, Custer, Acme). LAMIRD boundaries do not match water system plans. Requesting an EIS, skeptical of SEPA.	Doug Campbell - July 9, 2009 @ Public Hearing	
GMHB mentions allowance for local circumstances if backed up. Protect rights that county has established in the past.	Adam Morrow - July 9, 2009 @ Public Hearing	
Does not support proposal.	Whatcom Republican Party – July 15, 2009	
Need to know full economic impact of proposal. Lack of adequate public notice, volume of information too much, need more time on project.	Bill Quern - July 9, 2009 @ Public Hearing	
Concerned about 10 acre zoning applied to areas like Sudden	Garry Reid - July 9, 2009	

Valley and Cain Lake and how does this affect use? Concerned about lot consolidation changing in the future.	@ Public Hearing	
Lack of support for proposal is alarming. Thurston case demonstrated ability to have smaller lots with justification. Wait for supreme court ruling or request stay. Concerns with public process and lack of transparency. Illogical boundaries.	Mary Dickenson - July 9, 2009 @ Public Hearing	
Does not support proposal.	Ron DeBoer - July 9, 2009 @ Public Hearing	
Proposal is too complex and does too much harm. Does not support the proposal.	Bob Weisen - July 9, 2009 @ Public Hearing	
Proposal is promoting sprawl. Not enough land supply in cities. Growth will likely leapfrog as result of proposal	Jack Petree - July 9, 2009 @ Public Hearing	
Too much growth in rural Whatcom County. Proposed amendments are acceptable.	Cathy Lehman - July 9, 2009 @ Public Hearing	
Need more time, illogical spacing requirements	Jay Irwin - July 9, 2009 @ Public Hearing	
Refer to what GMA says about Rural Lands. Project needs more time.	Danon Traxler - July 9, 2009 @ Public Hearing	
Short time frame and lack of public comment/involvement	Dave Pros - July 9, 2009 @ Public Hearing	

MISCELLANEOUS NOTES & TELEPHONE CORRESPONDANCE		
Glacier: Straighten northern border in Glacier proper	Joseph Garcia, June 30	
Glacier: Consider river boundary to encompass broader area	Joseph Garcia, June 30	
Accessory dwelling issue in RR/R: Question regarding unintended consequences of 10 ac density on ability to have accessory dwelling unit (see Title 20.32.132(10) and 20.36.132(10)).	STAFF – public mtg question on June 30	