

Whatcom County Rural Element Update

PROPOSED FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS

PROPOSED FINDINGS OF FACT

GMA Requirements

1. The Washington Growth Management Act (GMA) requires county comprehensive plans to include a rural element that protects rural character.
2. GMA allows counties to “consider local circumstances” in its rural element but requires counties to “develop a written record explaining how the rural element harmonizes the planning goals in RCW 36.70A.020 and meets the requirements of” RCW 36.70A. (See Conclusions 2 and 3 below).
3. GMA allows, but does not require, counties to designate limited areas of more intensive rural development (LAMIRDs) (RCW 36.70A.070(5)(d)) and describes three types of development patterns that may be considered LAMIRDs:
 - a) Type 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...Any development or redevelopment in terms of building size, scale, use, or intensity shall be consistent with the character of the existing areas.” (RCW 36.70A.070(5)(d)(i)) In RCW 36.70A.070(5)(d)(iv), GMA states, “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 as provided in this subsection.” GMA requires counties to establish logical outer boundaries for areas of more intensive rural development and describes considerations that must be addressed in establishing those boundaries Per RCW 36.70A.070(5)(d)(v), existing areas are those that existed on July 1, 1990.
 - b) Type 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...” (RCW 36.70A.070(5)(d)(ii))
 - c) Type 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...” (RCW 36.70A.070(5)(d)(iii))

Growth Management Hearings Board Decision: *Futurewise vs. Whatcom County*

4. In *Futurewise v. Whatcom County and Gold Star Resorts, Inc.* (#05-2-0013 Sept. 20, 2005 Final Decision and Order), the Western Washington Growth Management Hearings Board (WWGMHB) found Whatcom County out of compliance on three issues: The policies pertaining to Small Town, Crossroads Commercial, Resort and Recreational Subdivision,

Suburban Enclave, and Transportation Corridor land use designations allow the creation of more intensive areas of rural development that do not comply with RCW 36.70A.070(5)(d); The Rural Residential zones (RR-1, RR-2, RR-3), Eliza Island (EI) zone, Rural two-acre (R-2A), and Rural Residential Island (RRI) zones allow residential densities that are not rural in the rural areas and are not in limited areas of more intensive rural development per RCW 36.70A.070(5)(d); and Urban Residential three-per-acre (UR-3) zoning in urban growth areas (except the UR-3 in Lake Whatcom watershed and the airport hazard area) failed to achieve appropriate urban densities.

5. In June, 2007 Whatcom County rezoned approximately 1,700 acres in the Ferndale and Everson UGAs to UR-4 in 2007 (Ord. 2007-030 and 2007-045) to address the urban density noncompliance issue in the September 20, 2005 *Futurewise v. Whatcom County and Gold Star Resorts, Inc.* decision.
6. The WWGMBH issued a finding of compliance on urban density issue on August 30, 2007.
7. The September 20, 2005 *Futurewise v. Whatcom County and Gold Star Resorts, Inc.* decision relating to the land use designation and rural density issues was reversed in Whatcom County Superior Court in 2006. The Superior Court decision was, in turn, reversed by the Division I Court of Appeals in 2007, which reinstated the 2005 WWGMHB decision and ordered Whatcom County to comply with that decision.
8. In August, 2009 Whatcom County Amended Whatcom County Code (WCC) Chapter 20.34 Rural Residential – Island District (one of the zones found to be out of GMA compliance in the 2005 *Futurewise* decision) to change the required minimum lot size from three acres to five acres (Ord. 2009-062).

Other Relevant Growth Management Hearings Board Decisions

9. The WWGMHB found existing zoning cannot be a sole criterion for designating LAMIRDs (*Wells vs. Whatcom County*, Case No. 97-2-0030c, Final Decision and Order, January 16, 1998)
10. The WWGMHB concurred with the Central Puget Sound Growth Management Hearings Board's finding in *City of Tacoma vs. Pierce County*, (CPSGMHG Case No. 99-3-0023c, Final Decision and Order, June 26, 2000) that LAMIRDs must not be in too close proximity to UGA boundaries because such location would promote the low-density sprawl that the LAMIRDs are required to avoid, and extended that principle to proximity to other LAMIRDs, stating, "Neither the uses nor the areas of growth are contained when they spread from one to the other." (*Better Brinnon Coalition vs. Jefferson County* Case No.03.2.0007 Compliance Order, June 23, 2004)
11. Regarding the term "built environment" as used as criterion for designating LAMIRDs in RCW 36.70A.070(5)(d)(iv), the WWGMHB found that vested rights does not equate to the built environment (*Anacortes vs. Skagit County*, Case No. 00-2-0049c, Compliance Order, January 31, 2002), the built environment includes those facilities which are manmade, whether they are above or below ground, and the built environment must predominate within a LAMIRD, though it may include limited undeveloped lands. (*Anacortes vs. Skagit County*, Case No. 00-2-0049c, Final Decision and Order, February 6, 2001)
12. The WWGMHB found the uses a county allows within LAMIRDs designated per RCW 36.70A.070(5)(d)(i) must be consistent with (though not necessarily the same as) the uses as of July 1, 1990, and allowance of a broader range of uses as conditional uses is not compliant with GMA. (*Dry Creek Coalition and Futurewise vs. Clallam County*, Case No. 07-

2-0018c, Final Decision and Order, April 23, 2008)

Whatcom County Policy

13. Whatcom County's County-wide Planning Policies include policies related to rural lands:
- a) County-wide Planning Policy B.1 states, "The county shall work with citizens to define a variety of types of rural areas based on the characteristics and needs of different areas."
 - b) County-wide Planning Policy B.2 states, "The county shall discourage urban level development outside Urban Growth Areas and outside of areas currently characterized by a development threshold greater than a rural development density."
 - c) County-wide Planning Policy B.3 states, "Whatcom County shall promote appropriated land uses and allow for infill within rural settlements characterized by existing commercial industrial, and intensive residential development greater than a rural development density. These areas should be clearly delineated and not expanded beyond logical outer boundaries in accordance with RCW 36.70A.070(5). Impacts on rural character, critical areas and other economic considerations as well as the availability of capital facilities and rural levels of service must be considered before allowing infill in these areas."
 - d) County-wide Planning Policies P.1 and P.2 reflect GMA Planning Goal (6) (RCW 36.70A.020(6)), which states private property shall not be taken for public uses without just compensation, and Whatcom County Charter Section 1.11, which states no regulation or ordinance shall be drafted and adopted without consideration of and provisions for compensation to those unduly burdened.
14. Whatcom County amended the Point Roberts Subarea Plan in 2001 (Ord. 2001-073), establishing land use policy for the Point Roberts area.
- a) The plan contains the following vision statement: "Point Roberts is a small, quiet, diverse and geographically unique American community located in a magnificent natural setting in close proximity to a major Canadian metropolitan area. The Point's unique maritime location and natural environment is its greatest asset and is integral to community character. Point Roberts strives to retain its small town character while promoting focused development that is sustainable and appropriate." (p. 32)
 - b) The plan acknowledges GMA's requirement to designate Urban Growth areas for places that may eventually incorporate, and instead "envisions a non-UGA approach to development in Point Roberts," citing community input favoring non-urban development patterns and unavailability of urban services (p. 36).
 - c) One of the plan's "community planning concepts" is to "cluster new residential development in areas where services can be provided." (p. 33)
 - d) No petition for Growth Management Hearings Board review of the Point Roberts Subarea Plan was filed within sixty days after publication (RCW 36.70A.290(2)).

Whatcom County Affected Areas and LAMIRD Designations

15. Whatcom County Planning and Development Services (PDS) estimated the 2005 *Futurewise vs. Whatcom County* decision affects approximately 18,000 acres located within a noncompliant land use designation or a noncompliant zoning district. PDS prepared maps

of the affected areas, divided into 46 geographic areas and named by locally known place names or by major road names.

16. The Chuckanut, Emerald Lake, and Fort Bellingham affected areas are adjacent to the Bellingham urban growth area, and the North Bellingham affected area is adjacent to the Ferndale urban growth area. The Sandy Point affected area is adjacent to the Cherry Point major port industrial urban growth area.
17. The Kendall affected area is currently within the Columbia Valley urban growth area. In October 2008 the Foothills Subarea Plan Advisory Committee issued a recommended draft update of the Foothills Subarea Plan. The draft plan excludes the Kendall affected area and lands adjacent to the affected area from the Columbia Valley urban growth area. At its March 17, 2009 meeting the Whatcom County Council affirmed that the Columbia Valley urban growth area should not be abolished and should remain per the recommendations of the advisory committee in the draft plan.
18. The Point Roberts affected area is situated on a peninsula. It is bounded on the north by the international border with Canada and on all other sides by water.
19. Twenty six affected areas contain areas or lots that meet GMA and Comprehensive Plan criteria for LAMIRD designation.
20. In determining the areas to be included within LAMIRD designations, PDS consulted the best available information to verify the built environment on July 1, 1990, or September 20, 2005, including 1991 and 2005 aerial photographs, assessor's property records for the appropriate years, and other documentation provided by property owners and public utility providers. Based on this data PDS prepared analysis maps for each of the 46 affected areas and published them on the county's internet site. These analysis maps, with the proposed LAMIRD boundaries superimposed, were included in the LAMIRD Report document published on the county's internet site and transmitted to the Planning Commission in advance of its July 9, 2009 public hearing.
21. The 20 areas proposed as LAMIRDs described in RCW 36.70A.070(5)(d)(i) (Type I LAMIRDs) each are delineated by a logical outer boundary based on criteria in Policy 2HH-1(C) and RCW 36.70A.070(5)(d)(iv), generally areas characterized by the built environment and development more intensive than surrounding rural areas on July 1, 1990.
22. In preparing amendments to permitted uses and development standards in commercial and industrial zoning districts reflecting the character of development within Type I LAMIRDs on July 1, 1990, the county has consulted the best available information, including 1991 aerial photographs, assessor's property records, to estimate the size, scale, use, and intensity of the built environment existing on July 1, 1990. The county has limited the number of undeveloped lots, and therefore the infill development potential, within Type I LAMIRD boundaries so that the July 1, 1990 built environment predominates.
23. The six areas proposed as LAMIRDs described in RCW 36.70A.070(5)(d)(iii) (Type III LAMIRDs) include lots that meet the criteria of Policy 2HH-3 and RCW 36.70A.070(5)(d)(iii), generally lots or small groups of lots that were characterized by isolated nonresidential development on September 20, 2005. The county interprets the term "isolated" so to apply small groups of lots containing uses that are isolated from other small groups of lots with similar uses, acknowledging historic development patterns while preventing these uses to expand beyond the LAMIRD to create new patterns of sprawl development.

Public Participation

24. Whatcom County's County-wide Planning Policies include policies related to citizen involvement:
 - a) County-wide Planning Policy A.2 states, "The county and the cities shall provide opportunities for citizens to become involved in the growth management planning process through various mechanisms, such as surveys, public workshops, meetings, hearings, and advisory committees."
 - b) County-wide Planning Policy A.4 states, "Citizen comments and viewpoints shall be incorporated into the decision-making process in development of draft plans and regulations. Consideration of citizen comments shall be evident in the decision-making process."
25. At the September 11, 2007 County Council Planning and Development Committee meeting, PDS discussed with the committee the status of the Rural Element Update and the two remaining issues from the September 20, 2005 WWGMHB decision (land use designations and rural zoning) that remain to be resolved.
26. At the January 10, 2008 Planning Commission meeting, PDS discussed the status of the Rural Element Update during a work session. PDS announced this meeting in a press release sent to local media outlets on December 31, 2007.
27. In August 2008 PDS hired Makers Architecture Inc. to act as project consultant to assist with the public participation process that would help define the public vision of residential character upon which the Rural Element Update would be based.
28. On September 24, 2008 PDS and project consultants Makers Architecture held meetings with representatives of local stakeholder groups. The purpose of these meetings was to inform them of the County's intention to propose Comprehensive Plan and zoning amendments to comply with the WWGMHB order, to solicit their views on how to make the amendments consistent with the vision of rural character in Whatcom County, and to seek their advice on how to maximize public involvement in the development of the amendments. The stakeholder groups represented at these meetings included community, business, development, agricultural, and environmental organizations, as well as local jurisdictions.
29. In the fall of 2008 PDS established a series of pages on the county's internet site dedicated to information and documents related to the rural element update project, and established a list of e-mail addresses for interested parties who wish to stay informed on the status of the project, including representatives of stakeholder groups and local jurisdictions. The internet site included background information on GMA requirements, contact information for questions and comments, and pages where all related documents and public comments would be posted. The e-mail list began with about 200 addresses of individuals, stakeholder groups, and public agencies that were on notification lists for other county projects, and new addresses were added for parties expressing a desire to receive e-mail notifications on the project.
30. On November 12 and 13, 2008, PDS and consultants held public meetings in Deming, Laurel, and Bellingham to involve the public in establishing a vision of rural character in Whatcom County that would guide the required amendments to WCCP and WCC. These meetings were publicized through an October 31 press release to local media outlets, the county's e-mail list and posting of fliers in various locations throughout rural Whatcom County. A total of about 46 people attended these meetings.

31. On November 13, 2008 PDS and project consultants met with representatives of County Fire Districts and water utilities to inform them of the County's intention to propose Comprehensive Plan and zoning amendments to comply with the WWGMHB order, to solicit their comments. A meeting with School District representatives was scheduled but no representatives attended.
32. Between November 12 and December 8, 2008 PDS conducted a non-scientific survey via an internet questionnaire seeking public input on rural character. PDS received and tabulated about 240 responses. 38% of respondents considered a rural lot size to be five acres or larger. Another 34% considered a rural lot size to be 10, 20, or 40 acres or more, while 28% considered one or two acres to be a rural lot size. Fifty-eight percent of respondents said that development in the rural areas in the last 10 years has been "too much" while 28% said it was "about right" and 7% said it was "too little."
33. At the December 11, 2008 Planning Commission meeting, PDS discussed the status of the Rural Element Update and the outcome of the November 2008 public meetings and survey during a work session. PDS announced this meeting in a press release sent to local media outlets on December 2, 2008.
34. On February 18, 2009 PDS mailed postcards to owners of all parcels in the areas affected by the 2005 WWGMHB decision, a total of approximately 17,500 cards. For this mailing PDS created a list of owners of record and their mailing addresses from the most current Whatcom County Assessor's property records. The postcards informed property owners their land may be affected by proposed amendments, notified them of public meetings scheduled for March 3 and 4, 2009, and gave the phone number for PDS and the URL address of the county internet site where they could obtain further information.
35. On February 27, 2009 PDS published on its internet site and distributed via e-mail list materials to be discussed at the March 3 and 4, 2009 public meetings, including an outline of proposed policies, proposed LAMIRD criteria, and a map showing the general location of proposed LAMIRDs.
36. On March 3 and 4, 2009 PDS and project consultants held public meetings in Laurel, Birch Bay, Rome Grange, and Bellingham to present and seek public comment on proposed policy concepts developed by PDS and project consultants based on comment received at the November 2008 public meetings. A total of about 350 people attended these meetings. Participants were asked to fill out comment cards and respond to questions regarding policy concepts. 81% of respondents agreed ("strongly" or "somewhat") with designating existing small towns and crossroad commercial areas as Rural Centers, where existing zoning may remain in place within a LAMIRD boundary. 61% agreed with designating commercial and tourist LAMIRDs subject to spacing requirements, while 20% were neutral and 17% disagreed.
37. At the March 19, 2009 meeting of the Citizens Transportation Action Group, PDS presented information on the Rural Element Update and sought participation by members of that group.
38. On March 26, 2009 PDS published on its internet site and distributed via e-mail list materials for the Public Hearing at the April 16, 2009 Planning Commission public hearing. The materials included a memorandum from PDS outlining ten policy questions for discussion and Planning Commission direction, and revised proposed criteria for LAMIRD designation and boundaries.
39. On April 16, 2009 the Whatcom County Planning Commission held a public hearing on the

rural element update project, focusing on the policy questions prepared by PDS. PDS announced this meeting in a press release sent to local media outlets on April 7, 2009, and staff sent a reminder of the meeting via e-mail list on April 10. Notice of the public hearing was advertised in the Bellingham Herald on April 6, 2009. Fifteen people spoke at the hearing.

40. At its April 23, 2009 meeting the Whatcom County Planning Commission held an open work session to deliberate on the policy issues prepared by PDS for the April 16 public hearing, and gave staff direction on these issues. PDS announced this meeting in a press release sent to local media outlets on April 16, 2009.
41. At the April 28, 2009 County Council Planning and Development Committee meeting, PDS discussed with the committee the status of the Rural Element Update, focusing on the policy issues discussed by the Planning Commission on April 23.
42. On May 1, 2009 the SEPA official issued a Determination of Non-Significance for the Rural Element Update. No comments were received within the 14-day comment period.
43. On May 7, 2009 PDS published on its internet site and distributed via e-mail list materials for the May 14, 2009 Planning Commission work session. The materials included a memorandum from PDS outlining additional policy questions related to LAMIRD criteria.
44. At its May 14, 2009 meeting the Whatcom County Planning Commission held an open work session to discuss the additional policy questions posed by PDS and give direction. PDS announced this meeting in a press release sent to local media outlets on May 6, 2009.
45. On June 23, 2009 PDS sent notification and draft amendments via e-mail to the Department of Commerce (formerly CTED), per the requirements of RCW 36.70A.106, and received an acknowledgement letter via e-mail from the department on June 24, 2009.
46. On June 23, 2009 PDS published on its internet site and distributed via e-mail list its first draft of proposed amendments to the Comprehensive Plan (text and maps), zoning code, and zoning maps. The mailing also announced the upcoming public meetings scheduled for June 30 and July 1, 2009, and the July 9, 2009 Planning Commission public hearing.
47. On June 30 and July 1, 2009 PDS and project consultants held public meetings in Blaine, Deming, Laurel, and Bellingham to present and answer questions on its first draft of proposed amendments to the Comprehensive Plan, zoning code, and zoning maps. A total of about 90 people attended these meetings.
48. On July 9, 2009 the Whatcom County Planning Commission held a public hearing on the rural element update project, hearing public testimony on the first draft of the proposed amendments to the Comprehensive Plan, zoning code, and zoning maps. PDS announced this meeting in a press release sent to local media outlets on June 29, 2009. Notice of the public hearing was advertised in the Bellingham Herald on June 28, 2009. Forty-two people spoke at the hearing.
49. On July 17, 2009 PDS published on its internet site and distributed via e-mail list materials for the July 23 Planning Commission work session, including a PDS memorandum summarizing major themes of public comments on the first draft of the proposed amendments, a memorandum from the Planning Commission chair outlining Whatcom County's history of GMA noncompliance, and an index of public comments sorted by geographic area for the Planning Commission's reference.
50. At its July 23, 2009 meeting the Whatcom County Planning Commission held an open work

session to discuss the public comments on the first draft and discuss revisions that may address those comments. PDS announced this meeting in a press release sent to local media outlets on July 14, 2009.

51. On August 7, 2009 PDS published on its internet site and distributed via e-mail list suggested revisions to the first draft, to be discussed at the August 13, 2009 Planning Commission work session.
52. At its August 13, 2009 meeting the Whatcom County Planning Commission held an open work session to discuss the suggested revisions to the first draft. In this session the Planning Commission decided to hold an additional public hearing, on September 8, 2009, to provide an opportunity for the public to review and comment on a revised draft. PDS announced this meeting in a press release sent to local media outlets on August 4, 2009.
53. On August 21, 2009 PDS published on its internet site and distributed via e-mail list a revised draft of the proposed amendments based on the suggested revisions discussed at the August 13, 2009 Planning Commission work session. That message also announced the September 8, 2009 public hearing.
54. On September 8, 2009 the Whatcom County Planning Commission held an additional public hearing on the rural element update project, hearing public testimony on the revised draft of the proposed amendments to the Comprehensive Plan, zoning code, and zoning maps. PDS announced this meeting in a press release sent to local media outlets on August 31, 2009. Notice of the public hearing was advertised in the Bellingham Herald on August 28, 2009. _____ people spoke at the hearing.
55. At its September 10, 2009 meeting the Whatcom County Planning Commission held an open work session to deliberate on the revised draft and the public comments received regarding that draft. PDS announced this meeting in a press release sent to local media outlets on August 31, 2009.
56. The Planning Commission held three public hearings and six open work sessions on the Rural Element Update process. PDS facilitated 12 public meetings in several locations throughout the county, at critical stages in the development of the proposed amendments.
57. The Bellingham Herald published articles about the Rural Element Update on November 12, December 4, December 10, December 11, 2008, and on February 28, March 4, June 28, July 22, August 12, and August 29, 2009. The Rural Element Update was the subject of the KGMI radio program, "Radio Real Estate" on July 18, 2009.

PROPOSED CONCLUSIONS

1. The proposed amendments are consistent with the goals and requirements of the Washington Growth Management Act (GMA) and are in the public interest.
2. The rural element of the Comprehensive Plan and the county development regulations, as amended, harmonize the GMA planning goals in RCW 36.70A.020.
 - a. Comprehensive Plan policies guiding growth within rural land use designations (Goals 2EE, 2JJ, 2KK, 2LL, 2MM), and development regulations reflecting rural uses and densities outside LAMIRDs and limited more intensive uses and densities within LAMIRDs (the amendments to Whatcom County Code Title 20 Zoning), and

- amendments to the official zoning map, are consistent with GMA goal (2), to reduce the inappropriate conversion of undeveloped land into sprawling, low-density development.
- b. Comprehensive Plan policies encouraging employment opportunities in rural parts of Whatcom County (Goal 2GG) and permitting limited infill development of businesses within LAMIRDs (Policies 2JJ-1, 2JJ-4, 2JJ-6, 2KK-1, 2LL-2, 2LL-2, and 2LL-3) are consistent with GMA Goal (3), to encourage economic development.
 - c. No provision of the Comprehensive Plan, the development regulations, or the proposed amendments, takes private property for public use, consistent with GMA Goal (6), which states private property shall not be taken for public use without just compensation, and property rights shall be protected from arbitrary and discriminatory actions.
 - d. Development regulations requiring setbacks from resource uses (in WCC Chapters 20.59, 20.60, 20.61, 20.63, 20.64, 20.67, 20.69, and 20.80) are consistent with GMA Goal (8), to maintain and enhance natural resource based industries and to discourage incompatible uses.
 - e. Comprehensive Plan policies making avoidance of critical areas a criterion for LAMIRD boundaries (Policy 2HH-1.C(2)(f)) and to ensure adequate wells and on-site sewage and septic systems (Policies 2FF-5 and 2FF-6) are consistent with GMA Planning Goal (10), to protect the environment and enhance the state's high quality of life, including air and water quality, and the availability of water.
 - f. The public process through which the amendments were written allowed considerable opportunity for community participation from the early conceptual level to the draft stage, consistent with GMA Planning Goal (11), to encourage the involvement of citizens in the planning process.
3. The rural element of the Comprehensive Plan and the county development regulations, as amended, meet the requirements of the Growth Management Act, RCW 36.70A.070(5).
- a. Comprehensive Plan policies concerning retention of rural character (Goal 2DD) and supporting development patterns and service provision policies that prevent sprawl and contain growth (Goal 2EE, 2FF, 2JJ, 2KK, 2LL, 2MM), and the development regulations that implement those policies, are consistent with RCW 36.70A.070(5)(c), which requires the rural element to include measures that protect the rural character by containing and controlling rural development, assuring visual compatibility with the surrounding rural area, and reducing the inappropriate conversion of undeveloped land into sprawling, low-density development in the rural area.
 - b. Comprehensive Plan policies describing rural land use designations and rural services (Goals 2FF, 2JJ, 2KK, 2LL, and 2MM), and the development regulations that implement those policies, are consistent with RCW 36.70A.070(5)(b), which requires the rural element to provide for a variety of rural densities, uses, essential public facilities and rural governmental services.
 - c. Comprehensive Plan policies describing land use designations that serve as LAMIRDs, and establish criteria for designating and drawing the boundaries for those areas (Goals 2HH, 2JJ, 2KK, and 2LL), are consistent with and the development regulations that implement those policies, are consistent with RCW 36.70A.070(5)(d), which states the rural element may allow for LAMIRDs, and must

- contain measures to minimize and contain those areas.
- d. Comprehensive Plan policies supporting minimum spacing requirements between designated LAMIRDs, and between LAMIRDs and urban growth areas (Policies 2HH-1(A)(3), 2HH-2(A)(3), and 2HH-3(A)(2)(b)) are consistent with RCW 36.70A.070(5)(d)(iii), which allows intensification of development on lots containing isolated non-residential uses, and with the growth management hearings board decision in *Better Brinnon Coalition vs. Jefferson County* (Case No.03.2.0007, Compliance Order, June 23, 2004), which found that LAMIRDs adjacent to urban growth area or other LAMIRDs are not in compliance with GMA.
 - e. Comprehensive Plan Map 8 shows LAMIRD designations consistent with GMA requirements in RCW 36.70A.070(5)(d), with growth management hearings board decisions pertaining to that section of GMA, and with Comprehensive Plan policies that establish LAMIRD designation and boundary criteria (Goal 2HH).
4. The rural element of the Comprehensive Plan and the county development regulations, as amended, are consistent with the goals and policies of the Whatcom County County-wide Planning policies.
- a. The public process through which the amendments were written allowed considerable opportunity for community participation from the early conceptual level to the draft stage, consistent with County-wide Planning Policies A.2 and A.4, which support providing opportunities for citizens to become involved in the growth management planning process, and incorporating citizens' comments and viewpoints into the decision-making process, and with County-wide Planning Policy B.1, which supports the county working with citizens to define a variety of types of rural areas.
 - b. Comprehensive Plan policies supporting prevention of sprawl and containment of growth in rural areas (Goal 2EE), and describing rural land use designations (Goals 2JJ, 2KK, 2LL, and 2MM), and the development regulations that implement those policies, are consistent with County-wide Planning Policy B.2, which discourages urban level development outside urban growth areas and outside of areas currently characterized by a development threshold greater than a rural development density.
 - c. Comprehensive Plan policies designating limited areas of more intensive rural development (LAMIRDs) (Goals 2HH, 2JJ, 2KK, 2LL) are consistent with County-wide Planning B.3, to promote appropriate land uses and allow for infill within rural settlements characterized by existing commercial, industrial, and intensive residential development greater than a rural density, which should be clearly delineated and not expanded upon logical outer boundaries.
5. Whatcom County is proposing no action that would take property for public use or unduly burden a property owner by leaving him or her without a reasonable use of his or her property, or otherwise deprive him or her of legally recognized rights. This is consistent with Whatcom County Charter Section 1.11, which states, "The rights of the individual citizen shall be guaranteed under the Constitutions of the United States and the State of Washington. No regulation or ordinance shall be drafted and adopted without consideration of and provisions for compensation to those unduly burdened."
6. Comprehensive Plan Policy 2JJ-5 states lands within Rural Center designations with low-density residential (lot size five acres or greater) or resource zoning should not be rezoned to allow more intensive uses and densities. This is consistent with RCW 36.70A.070(5)(d)(i)(C), which requires any development or redevelopment to be consistent

with the size, scale, use and intensity of development that existed on July 1, 1990, and with the Point Roberts Subarea Plan vision of retaining a small town character while promoting focused development that is sustainable and appropriate.

PROPOSED RECOMMENDATIONS

The Planning Commission recommends approval of: (1) the proposed amendments to Chapters Two, Five, Six, Seven, Nine, and Ten, and Map 8 of the Whatcom County Comprehensive Plan; (2) the proposed amendments to the Whatcom County Code Title 20, Chapters 20.04, 20.13, 20.14, 20.32, 20.35, 20.36, 20.60, 20.61, 20.63, 20.64, 20.67, 20.72, 20.80, 20.82, 20.84, and 20.97, and adding new Chapters 20.59 and 20.69; and the proposed amendments to the Official Whatcom County Zoning Map. These recommendations are based on the findings and conclusions listed above.