



M E M O R A N D U M

TO: Whatcom County Council

THROUGH: David Stalheim, Director

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

DATE: March 18, 2010

SUBJECT: Rural Element Update

Planning and Development Services (PDS) has recommended the County Council hold a series of work sessions to review the Planning Commission's recommended changes to the Comprehensive Plan and zoning regulations for the rural element. Those recommendations are contained in the notebooks provided to the council members and on the county web site at <http://www.whatcomcounty.us/pds/plan/long/projects/lamird/proposed.jsp>

During the first work session on March 30, PDS intends to focus on the main features of the Planning Commission's recommendations. Many of the provisions recommended by the Planning Commission are mandated by state law or based on Growth Management Hearings Board decisions. The second meeting would go into more detail on the recommendations, such as review of the boundary decisions and code amendments.

Some of the policy choices made by the Planning Commission may go beyond the minimum necessary to comply with the Growth Management Act. While these policy issues were important to the Planning Commission, in this memorandum we want to focus on options the County Council could consider that would reduce the extent of changes while still achieving compliance with the Growth Management Act.

Potential revisions to Planning Commission recommendations:

- Water/sewer line as a Type I LAMIRD designation and boundary criterion
 - Possible action: Change proposed Comprehensive Plan Policy 2HH-1.C.2.d to clarify that existence of large diameter water/sewer lines in 1990 is a criterion for inclusion in Type I LAMIRD boundary
 - Areas potentially affected: Axton and Guide Meridian, Smith and Guide Meridian, Pole Road and Guide Meridian, Hinotes Corner
 - Discussion: Hearings board decisions consider both above- and below-ground improvements to be part of the "built environment" for purposes of determining LAMIRD boundaries, and support LAMIRDs including undeveloped lots

served by water and sewer lines that were designed and installed before July 1, 1990 to serve more intensive densities and uses¹. The Planning Commission chose not to make existence of utility lines a sole criterion for designating an area as a LAMIRD, citing concerns that it may create development pressure in areas that would not otherwise meet criteria for being designated as a LAMIRD.² Efficient provision of public facilities and services is a LAMIRD boundary criterion listed in both the Growth Management Act and the proposed Whatcom County criteria.³ The Planning Commission added several parcels to the proposed Glacier LAMIRD based on the existence of pre-1990 water lines and preservation of the natural neighborhood, two of the proposed boundary criteria.⁴

- Residential-only Type I LAMIRDs
 - Possible action: Change proposed Policy 2HH-1.B.1 to include residential-only areas; add land use designation for residential LAMIRDS (such as Rural Neighborhood)
 - Areas potentially affected: Lake Samish, Sandy Point
 - Discussion: Growth Management Act allows residential-only LAMIRDs.⁵ Planning Commission chose to limit Type I LAMIRDs to areas that had historically served as a hub of public and commercial services, which could include residential uses. The majority of the Planning Commission wanted to direct more intensive residential infill into rural center hubs rather than residential areas away from those hubs, citing potential traffic generation and additional demand for services in outlying residential areas, as well as inconsistency with rural character.⁶

- Rural Density Overlay
 - Possible action: Change proposed Policy 2MM-1, 2MM-2 to establish density overlay for preservation of existing rural character; change zoning code chapters 20.32 (Rural Residential district) and 20.36 (Rural district) to permit a base density of one residence per five acres, with overlay to permit increased density on each lot in the zone consistent with the average density surrounding the lot.
 - Areas potentially affected: Areas with noncompliant Rural or Rural Residential zoning that do not meet criteria for inclusion in a LAMIRD, including areas adjacent to Urban Growth Areas: Hinotes Corner, Wisner Lake East, Chuckanut, Emerald Lake, Fort Bellingham, Lummi Peninsula, North Bellingham, Sandy Point, and portions of others.
 - Discussion: This proposal is based on a similar provision recently enacted by Clallam County.⁷ The Western Washington Growth Management Hearings Board found that provision to be in compliance with Growth Management Act in November 2009 (one month after the Whatcom County Planning Commission completed its recommendations).⁸

¹ 1000 Friends of Washington v. Thurston County, Western Washington Growth Management Hearings Board Case No. 05-2-0002 Compliance Order p. 13 (November 30, 2007); Dry Creek Coalition and Futurewise v. Clallam County, Western Washington Growth Management Hearings Board Case No. 07-2-0018c Final Decision and Order p. 30 (April 23, 2008)

² Whatcom County Planning Commission meeting, April 23, 2009, audio recording at 1:35, and meeting minutes at page 7

³ RCW 36.70A.070(5)(d)(iv)(D)

⁴ Whatcom County Planning Commission meeting, September 10, 2009 meeting minutes at page 3

⁵ RCW 36.70A.070(5)(d)(i)

⁶ Whatcom County Planning Commission meeting, September 22, 2009, audio recording at 2:01

⁷ Clallam County Code Section 33.10.015 Rural Neighborhood Conservation

⁸ Dry Creek Coalition and Futurewise v. Clallam County, Case No. 07-2-0018c, Compliance Order, November 3, 2009

The rest of the Planning Commission recommendations closely follow the requirements of the Growth Management Act or Growth Management Hearings Board decisions. These provisions include:

- LAMIRD designation and boundary criteria except for items identified for potential revisions above (proposed Policies 2HH-1.A, B, C)
 - Discussion: Proposed criteria for Type I LAMIRD boundaries are based on Growth Management Act requirements.⁹
- Commercial and industrial proposed zoning within LAMIRDs that reflect the size, scale, use, or intensity of development that existed on July 1, 1990
 - Discussion: Growth Management Act limits development in Type I LAMIRDs to that which is consistent with the 1990 development “in terms of size, scale, use, or intensity.”¹⁰ Staff has performed an analysis using best available maps, aerial photography, county assessor’s records and property owners’ documentation to draft development regulations that reflect the size, scale, use, and intensity of existing development in 1990. While that provision does not apply to Type III LAMIRDs, the Growth Management Act requires that expansion of the small-scale businesses in these LAMIRDs conform with the rural character of the area.¹¹
- Spacing requirements between LAMIRDs and between LAMIRDs and Urban Growth Areas (proposed Policies 2HH-1.B.3, 2HH-2.A.3, and 2HH-3.B.1)
 - Discussion: Hearings board decisions have found other counties’ proposed LAMIRDs to be out of compliance with the Growth Management Act when located adjacent or very close to other LAMIRDs or Urban Growth Areas.¹²

Staff will be prepared to discuss each of these issues and explain their effect on various maps at the next meeting. If you have questions regarding these issues, please call Gary Davis at extension 50246.

⁹ RCW 36.70A.070(5)(d)(iv)

¹⁰ RCW 36.70A.070(5)(d)(i)(C)

¹¹ RCW 36.70A.070(5)(d)(iii)

¹² City of Walla Walla, et al v. Walla Walla County, EWGMHB Case No. 02-1-0012c Final Decision and Order (November 26, 2002); of Tacoma, et al., v. Pierce County, CPSGMHB Case No. 99-3-0023c Final Decision and Order (June 26, 2000); an exception is made when the county documents that a city has no need or interest in including an adjacent industrial area in a UGA - People for a Liveable Community, Jim Lindsay, et al. v. Jefferson County, WWGMHB 03-2-0009c Final Decision and Order (August 22, 2003)