



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: April 16, 2010

SUBJECT: Rural Element Update

At its April 13 meeting, the Planning and Development Committee asked Planning and Development Services (PDS) to continue discussion of the Rural Element Update at subsequent meetings, as agenda time permits. These discussions would focus on each of the options outlined in the March 16 PDS memo and discussed in previous meetings that would change the Planning Commission recommendation to reduce the number of properties to be downzoned.

The options of **residential-only LAMIRDs** and **density overlays** can be discussed jointly, as either option could be applied to some affected areas not recommended for LAMIRDs in the Planning Commission recommendation despite meeting state criteria for inclusion in a Type I LAMIRD. The March 16 memo outlines how each could be added to the proposed Comprehensive Plan and zoning code amendments.

PDS has pointed out that hearings board decisions have not favored LAMIRDs with residential components to be located **adjacent to Urban Growth Areas (UGAs)**.¹ If residential areas adjacent to UGAs (Chuckanut, Emerald Lake, Fort Bellingham, Lake Whatcom, North Bellingham, Sandy Point) were designated as LAMIRDs, the county would likely be called upon to make the case that additional infill allowed by the retention of existing zoning within the LAMIRD designation would not contribute to a pattern of sprawl development.

There are several residential areas not adjacent to UGAs that would likely meet state criteria for inclusion in a Type I LAMIRD. One such area, Cain Lake, was discussed on April 13. The small-lot subdivision to the west of Cain Lake Road is characterized by more intensive

¹ 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 was 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)

development existing in 1990. And, like many similar subdivisions, parcels are already divided to their maximum potential under current zoning.

One month after the Whatcom County Planning Commission forwarded its recommendation to the County Council, the Western Washington Growth Management Hearings Board found Clallam County to be in compliance with the Growth Management Act after it enacted a rural **density overlay**. This overlay allows higher densities than the underlying one-per-five-acre rural zoning. In these areas, a lot is eligible for higher density if 70% of the lots within 500 feet have residential development. If eligible, the lot's permitted minimum lot size is equal to the average size of all lots within 500 feet, not to exceed a density of one unit per 2.4 acres (see Clallam County brochure, attached). The Western Washington Growth Management Hearings Board found this to be compliant because it preserves the current character of residential neighborhoods.² Clallam County has applied this overlay in intensively developed rural areas adjacent to UGAs. Because these areas are not LAMIRDs, their boundaries do not have to meet Type I LAMIRD boundary criteria, and density calculations are based on current development patterns, not those that existed in 1990.

Summary:

Planning Commission recommendation: Rezone residential-only areas to R-10A or RR-10A

- Lots smaller than ten acres would have nonconforming lot size; only lots greater than 20 acres would be able to subdivide

Option: LAMIRD designation for residential-only areas

- Can retain current zoning; lots at least twice the size of minimum lot size would be able to subdivide (red hatching on the LAMIRD Report study maps)
- Has no effect on lots that are already subdivided to their maximum potential under current zoning (except for accessory dwelling units in R-2A)
- LAMIRD designations adjacent to UGAs have not been considered Growth Management Act compliant by the Growth Management Hearings Board; Whatcom County would likely have to provide strong justification

Option: Density overlay

- Underlying zoning would be changed to have a rural density, but density can be increased for an individual lot to reflect established density patterns surrounding that lot
- Boundary does not have to meet LAMIRD boundary criteria (1990 development)
- Hearings Board has found Clallam County's overlay provision to be Growth Management Act compliant

Option: Combination of density overlays adjacent to UGAs and LAMIRD designations away from UGAs

- Current density patterns maintained in overlays and current zoning retained in LAMIRDs
- Both have been found compliant with Growth Management Act

Please contact Gary Davis at extension 50246 if you have questions.

² Dry Creek Coalition and Futurewise v. Clallam County, Case No. 07-2-0018c, Compliance Order, November 3, 2009, pp 7-12

Additional NCC development standards include, but are not limited to:

- Submittal of an inventory and evaluation of on-site and surrounding natural features and land uses.
- Layout must result in 3 or more lots (at least two planned for residential development).
- Maximum allowed density is 1 du per 2.4 acres.
- Minimum cluster lot size is 0.75 acres.
- Layout must show that it substantially meets the 11 design objectives.
- Public water system required.
- Must retain at least 70% of gross acreage that is set aside and permanently dedicated as rural open spaces.
- The rural open space lot may be designed to accommodate a single-family residence and other allowed uses; provided that, buildings and improvements are limited to a building envelope of no more than 1.5 acres and that the area outside of the building envelope retains 70% of gross acreage of the development as permanent open space.
- Clusters of 3 lots or more must provide for a 50-foot wide building setback and visual buffer between neighboring properties, public streets, and private roads that serve properties outside of the development, except along common boundaries with designated urban growth area or limited area of more intensive rural development.
- No more than 8 adjacent lots may be clustered without providing at least 200-foot separation between clusters.

Other Development Standards Apply:

The intent of this brochure is to inform you of the potential ways that may be available to you to subdivide your property in the Rural Neighborhood Conservation (NC) Zone. It does not include all applicable development regulations that apply to building a home on your property or dividing your property to create new lots for residential development.

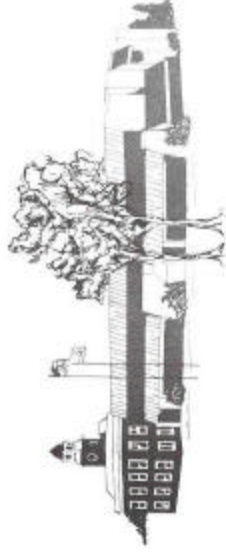
For more information or assistance:

- Find the complete text of the NC zone on-line at www.clallam.net. (see to Section 33.10.015 of the Clallam County Zoning Code) or obtain a copy from the Department of Community Development (DCD) upon request.
- Visit DCD during normal business hours.
- Call to schedule a time to talk to a planner.
- If ready to submit a subdivision application, consider a pre-application conference.

Rural Neighborhood Conservation (NC) Zone



Clallam County Department of Community Development (DCD)



This brochure explains the various residential subdivision development options in the Rural Neighborhood Conservation (NC) Zone.

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Clallam County Development Assistance Brochure 80

Introduction: There are three potential ways to subdivide property for residential development in the Rural Neighborhood Conservation (NC) zone. This brochure will summarize each potential option.

Option 1. Subdivide at Base Density. Properties at least 10 acres in size may divide at the base density of 1 dwelling unit ("du") per 5 acres (or 1/128th of a section of land if the property can be described as a fraction of a section of land) with a minimum lot size of 1-acre. For example, a 10-acre NC zoned property may be divided into 2 lots, which can consist of two 5-acre lots, a 9-acre and 1-acre lot, or any other combination where both the 1 du per 5 acre maximum density and the 1-acre minimum lot size standards are met.

Option 2. Residential Infill Subdivision (NCO). Properties that are 4.8 acres to and including 11 acres in size may be eligible to divide under the Rural Neighborhood Conservation Overlay (NCO) option. The NCO option allows for residential in-fill development at a residential density greater than the NC base density of 1 du per 5 acres if nearby parcels are "substantially developed" at densities greater than the NC base density. To be deemed "substantially developed," several conditions must be met. First, at least 70% of the parcels within 500 feet of the property to be divided ("subject property") must already be residentially developed. Second, if this is the case, then the subject property qualifies for in-fill development at a density that is calculated based on the average parcel size of the residentially developed parcels within 500 feet, but not to exceed a density of 1 du per 2.4 acres. Parcels located within existing NCO or NCC (cluster) developments, urban growth areas, or designated limited areas of more intensive rural development (LAMIRD) zones are not eligible to be included in the density calculation to justify an NCO in-fill density higher than the NC base density of 1 du per 5 acres.

County planning staff can assist you with determining whether your property qualifies for an NCO land division, and if so, at what density.

The below table summarizes whether your land may be eligible to be divided based on the size of your property. Please note that additional NC zoning criteria apply to qualify and be approved for a particular development option. The complete text and standards of the NC zone are specified at CCC 33.10.015, and should be consulted prior to proceeding with an application to subdivide property within the NC zone.

Property size (may consist of several adjacent parcels)	Option 1 – Base density Potential division at base density of 1 du*5 acres	Option 2 – NCO Potential Overlay in-fill development at neighborhood average up to 1 du*/2.4 acres	Option 3 -- NCC Potential Cluster development at 1 du*/2.4 acres
Less than 4.8 acres**	No	No	No
4.8 acres or larger but less than 10 acres	No	Yes	No
10 acres or larger but less than 11 acres	Yes	Yes	No
11 acres	Yes	Yes	Yes
Larger than 11 acres	Yes	No	Yes

* "du" means "dwelling unit."

**Lots less than 4.8 acres are eligible for residential development subject to compliance with applicable regulations, but cannot be divided further within the NC zone.

To receive assistance, you should obtain an NCO Qualification Worksheet from the Department of Community Development ("DCD"), fill in the necessary information, and return it to DCD. If submitted by the property owner, DCD will complete the Worksheet free of charge. An NCO Qualification Worksheet must be completed prior to submitting an application for an NCO land division.

NCO example: Under the NC zone's base density of 1 du per 5 acres, a 6 acre NC zoned property ("subject property") cannot be divided further. If however, for example, the NCO Worksheet reveals that 83% (more than the 70% minimum) of the parcels within 500 feet of the subject property's boundaries are already residentially developed and that the average parcel size of those residential developed parcels is 3 acres, then the subject parcel qualifies for in-fill development at a density of 1 du per 3 acres. In this example, the 6 acre subject property could divide into 2 lots, which can consist of two 3-acre lots, a 5-acre and 1-acre lot, or any other combination where both the maximum NCO in-fill density (in this case 1 du per 3 acres) and the 1-acre minimum lot size standards are met.

Option 3. Cluster Subdivision (NCC). Properties 11 acres or larger may be eligible to divide under the Rural Neighborhood Conservation Cluster (NCC) option. The NCC option provides property owners with an incentive to consider the benefits of a cluster development. In exchange for preserving rural character by permanently protecting open space, farmlands, woodlots, and/or critical areas, a property owner is eligible for a density bonus and may enjoy reduced development costs which generally result from the shorter roads and utilities associated with cluster developments.

NCC Example: Under the NC zone's base density of 1 du per 5 acres, a 20 acre NC zoned property could be divided into four lots of approximately equal dimensions, resulting in fragmentation of open space, farmlands, woodlots, and/or fish and wildlife habitat. In comparison, under the cluster development option, that same 20 acre property could be developed with a cluster of up to 8 residential lots of at least 0.75 acre each if at least 14 of the 20 acres (or 70% of the property) is permanently protected for open space, farmlands, woodlots, and/or critical areas.