

Rural Element Update

February 15, 2011

Today's Presentation

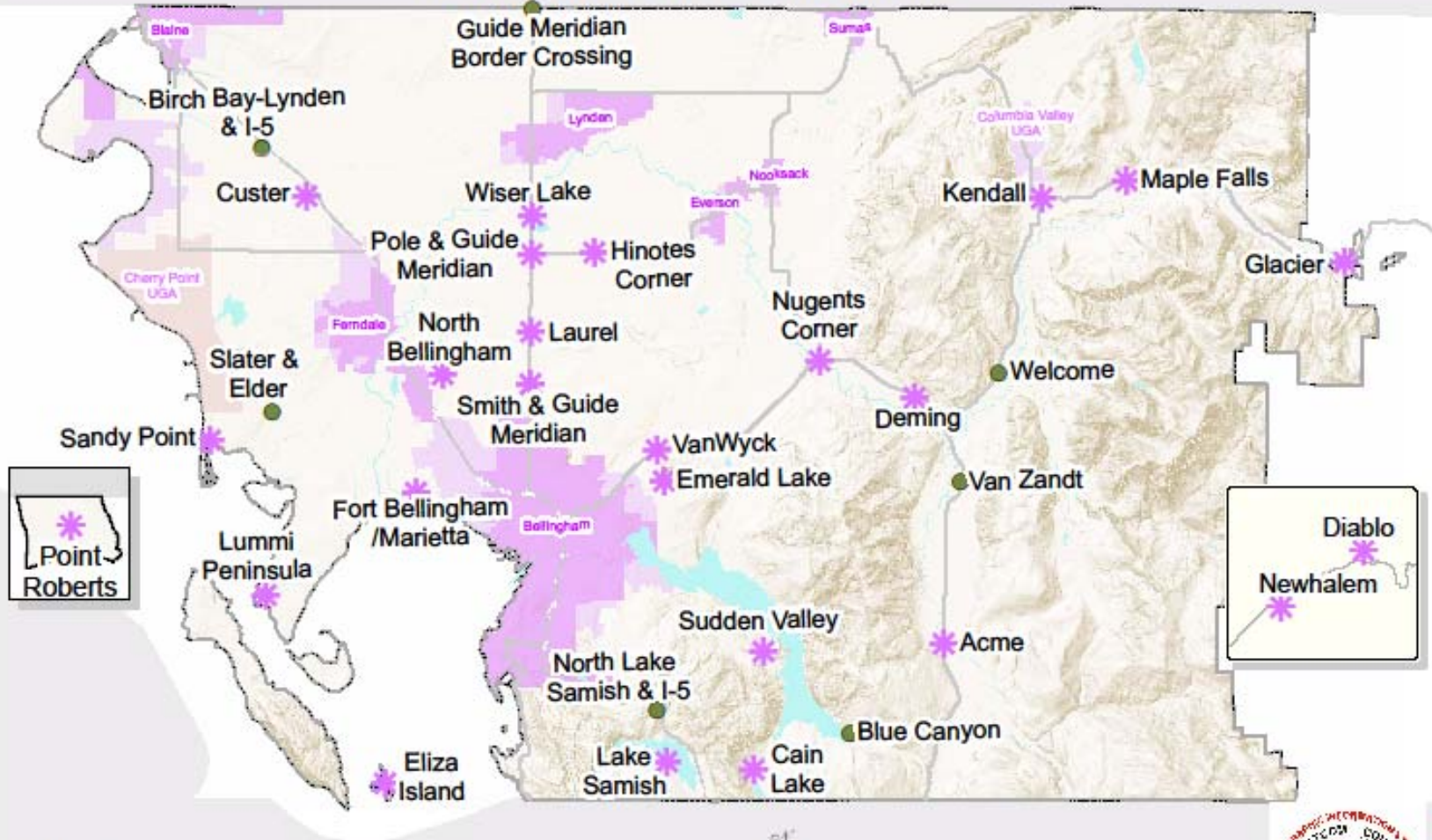
Maps from September 7, 2010 Draft Ordinance

- Summary of Changes from Planning Commission Rec.
 - LAMIRDs adjacent to UGAs
 - Residential LAMIRDs
 - 2-acre zoning (current R-2A zones)
 - Rural Residential Overlay areas
- Acreage Breakdown
- Type I Boundaries - Review of GMA/Hearings Board
- Next Steps

Comparison with Planning Commission Recommendations

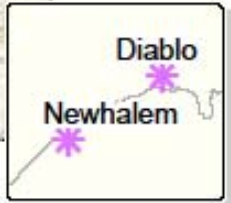
- Number of Type I LAMIRDs (*Rural Community*)
 - Planning Commission: 20
 - This draft: **25**
- Number of Type III LAMIRDs (*Rural Business*)
 - Planning Commission: 6
 - This draft: **7**
- Total Acres in LAMIRDs
 - Planning Commission: **5,961** (35% of affected area)
 - This draft: **9,104** (53% of affected area)
- Commercial acres in LAMIRDs
 - Planning Commission: **1,182**
 - This draft: **1,249**

Proposed LAMIRDs



Legend

- Proposed LAMIRDs**
-  Type I Rural Comm.
 -  Type III Rural Bus.
 -  Urban Areas (Cities & UGA)



December 1, 2010 by gjd

LAMIRDs adjacent to UGAs

- **Eliminate spacing requirements** for Type I and Type II LAMIRDs and designate Type I LAMIRDs adjacent to UGAs based on GMA 1990 built environment and boundary criteria, including residential-only areas.
 - Emerald Lake (north part)
 - Fort Bellingham/Marietta (south and west parts)
 - North Bellingham (north part)
 - Sandy Point (SP, Neptune Beach, and SP Heights)
- **Other residential LAMIRDs**
 - Cain Lake (west part)
 - Eliza Island
 - Lake Samish (north part)

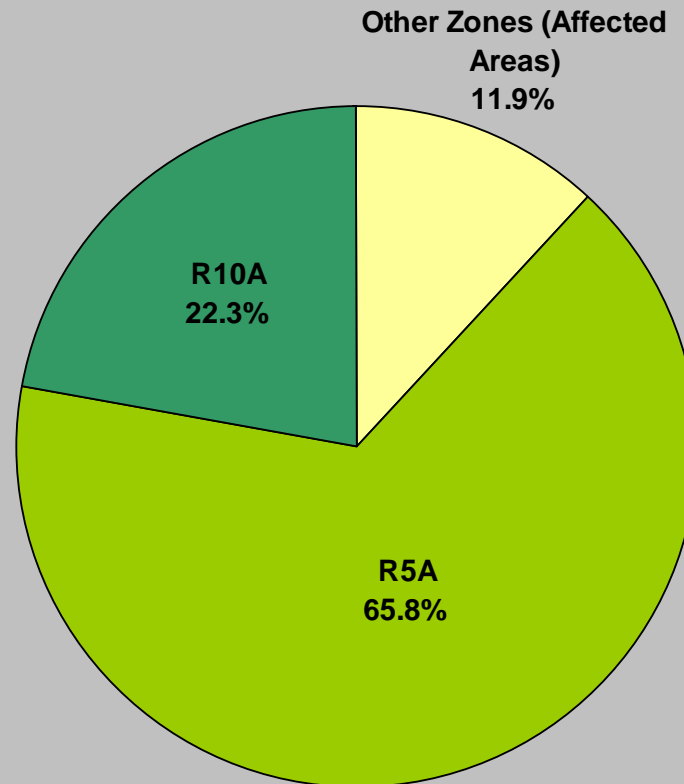
2-Acre Zoning

- In the R-2A areas outside LAMIRDs where average parcel size is 2.5 acres or less, **retain the R2A zoning** based on its being consistent with the established rural character of those areas.
 - East Lynden
 - Hinotes Corner (east part)
 - Lake Whatcom (R-2A part)
 - South Bay (R-2A part)
 - Wickersham
 - Wisser Lake East
- **878 acres total**

Rural Residential Overlay

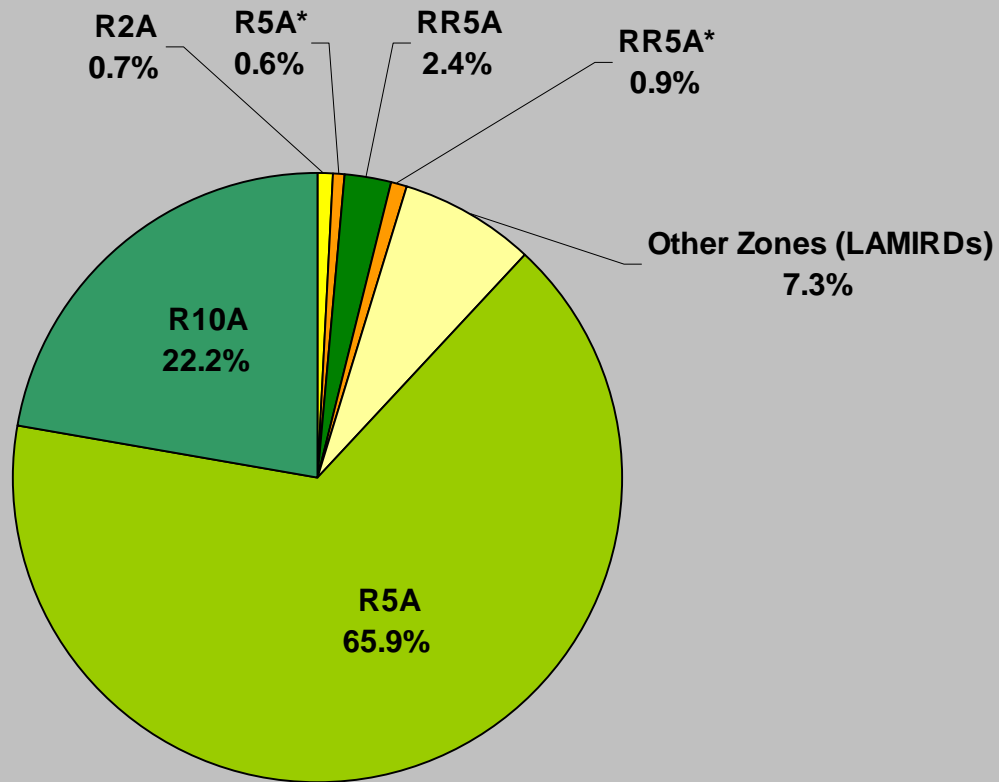
- In areas outside LAMIRDs with average parcel size of 5 acres or less, rezone to 5-acre base density with the **ability to achieve 1-acre density** based on average size of surrounding lots.
 - Badger and Guide Meridian (Badger/Berthusen portion)
 - Chuckanut (east part)
 - Custer (south part)
 - Fort Bellingham/Marietta (northeast part)
 - Hinotes Corner (west part)
 - Lake Whatcom (RR-2 parts)
 - North Bellingham (south part)
 - South Bay (RR-1 part)
 - Welcome (north part)
 - (not Glacier Springs – Glen at Maple Falls)
- **1,812 acres total**
- Excludes areas where overlay would have no effect

Whatcom County Rural Lands Current Acreage by Zoning District



Other Zones (Affected Areas) acreage excludes R5A, R10A, AG, and RF zones within noncompliant CP designations

Whatcom County Rural Lands Proposed Acreage by Zoning District



Other Zones (LAMIRDs) acreage excludes AG, ROS, and Federal Lands proposed for inclusion within LAMIRD boundaries.

Growth Management Act

Type I LAMIRD boundaries

- “A county shall adopt measures to **minimize and contain** the existing areas or uses of more intensive rural development... Lands included in such existing areas or uses **shall not extend beyond the logical outer boundary** of the existing area or use, thereby allowing a new pattern of low-density sprawl...”

RCW 36.70A.070(5)(d)(iv)

Growth Management Act

Type I LAMIRD boundaries

- “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 if limited as provided in this subsection...”

RCW 36.70A.070(5)(d)(iv)

Growth Management Act

Type I LAMIRD boundaries

- “...an **existing** area or existing use is one that was in existence...on **July 1, 1990.**”

RCW 36.70A.070(5)(d)(v)(A)

Growth Management Act

Type I LAMIRD boundaries

- “In establishing the logical outer boundary the county shall address:
 - (A) the need to preserve the **character of existing [1990] natural neighborhoods** and communities,
 - (B) **physical boundaries** such as bodies of water, streets and highways, and land forms and contours,
 - (C) the prevention of **abnormally irregular boundaries**, and
 - (D) the ability to provide **public facilities and public services** in a manner that does not permit low-density sprawl.”

Hearings Board Decisions

- “...while the GMA provides a detailed set of criteria for the designation of the LOB that goes beyond merely recognizing pre-existing zoning boundaries, it is not necessarily true that adopting those zoning boundaries as the LOB would create non-compliant LAMIRDs ... However, where those zoning boundaries do not contain areas that would match a properly drawn LOB, the fact of pre-existing zoning does not justify noncompliance.”

Dry Creek Coalition/Futurewise v. Clallam County, WWGMHB Case No. 07-2-0018c Final Decision and Order, April 23, 2008, p. 21

Hearings Board Decisions

Dry Creek 2008 continued (p.30):

“The Board has previously held ...when establishing a LAMIRD the County must FIRST identify the built environment as of July 1, 1990, so that it may be minimized and contained as required under the Growth Management Act.^[1] In determining the built environment, the Board has stated:

- Vested rights does not equate to the built environment^[2]
- the built environment includes those facilities which are manmade, and whether they are above or below ground^[3]
- Subdivided or platted land, although occurring prior to 1990, which remains undeveloped may not be considered part of the built environment as the legislature intended this term to relate to manmade structures.^[4]

Once the built environment has been identified, the County must establish the LOB for the LAMIRD by considering the criteria set forth in RCW 36.70A.070(5)(d).”

- ^[1] Butler v. Lewis County, WWGMHB Case No. 99-2-0027c Final Decision and Order, June 30, 2000
- ^[2] Anacortes v. Skagit County, WWGMHB Case No. 00-2-0049c, Compliance Order, January 31, 2002
- ^[3] Anacortes v. Skagit County, WWGMHB Case No. 00-2-0049c, Final Decision and Order, February 6, 2001
- ^[4] Butler et al v. Lewis County, WWGMHB Case No. 00-2-0031c/99-2-0027c Final Decision and Order, March 5, 2001

Hearings Board Decisions

“In the case of the Rochester LAMIRD, the county considered both historic above-ground structures ... and the historic below-ground water system lines to identify the built environment. Futurewise argues that water system lines must be of a ‘more intensive’ than rural level of service in order to qualify as part of the built environment. In principle, the board agrees with Futurewise ... [T]he critical factor in determining whether the water system is a rural or urban system is the intensity at which water service is provided... No evidence has been put before the Board to distinguish between those water system lines that are admittedly ‘more intensive rural’ uses and those which are asserted to be only rural in intensity. The Board therefore defers to the county’s decision that the constructed water lines represent a more intensive rural level of service throughout the Rochester LAMIRD.”

1000 Friends of Washington v. Thurston County, WWGMHB Case No. 05-2-0002, Compliance Order, November 30, 2007, p.13

Hearings Board Decisions

“The creation of a logical outer boundary is **not a justification for adding rural lands when those lands significantly expand the potential for more intensive rural development** because this would not ‘minimize and contain’ more intensive rural development... ‘**Infill**’ is **specifically contemplated in the statute** so that the mere addition of some lots through infill does not necessarily violate the restrictions of RCW 36.70A.070(5)(d)(i) and (iv). However, ‘**outfill**’ or **the inclusion of larger tracts of land on the periphery** of the built environment is of major concern as **adding to, rather than minimizing and containing**, more intensive rural development...”

1000 Friends of Washington v. Thurston County, WWGMHB Case No. 05-2-0002, Compliance Order, November 30, 2007, p. 18-19

WAC 365-196-425 (6)(c)(i)

(C) The logical outer boundary must be delineated primarily by the built environment as it existed on the date the county became subject to the planning requirements of the act.

(I) Some **vacant land may be included** within the logical outer boundary provided it is limited and does not create a significant amount of new development within the LAMIRD.

(II) Construction that defines the built environment may include **above or below ground improvements**. The built environment **does not include patterns of vesting or preexisting zoning**, nor does it include **roads, clearing, grading, or the inclusion within a sewer or water service area if no physical improvements are in place**. Although vested lots and structures built after the county became subject to the act's requirements should not be considered when identifying the built environment, they may be included within the logical outer boundary as infill.

(III) The logical outer boundary is not required to strictly follow parcel boundaries. If a large parcel contains an existing structure, a county **may include part of the parcel** in the LAMIRD boundary without including the entire parcel, to avoid a significant increase in the amount of development allowed within the LAMIRD.

WAC 365-196-425 (6)(c)(i)

(D) The fundamental purpose of the logical outer boundary is to minimize and contain the LAMIRD. Counties should favor the configuration that best minimizes and contains the LAMIRD to the area of existing development as of the date the county became subject to the planning requirements of the act. When evaluating alternative configurations of the logical outer boundary, counties should determine how much new growth will occur at build out and determine if this level of new growth is consistent with rural character and can be accommodated with the appropriate level of public facilities and public services...

Next Steps

- Next COTW meetings
- Public Hearings