

Rural Element Update

March 9, 2011

Today's presentation

- Growth Management Act requirements for rural element (LAMIRDs)
- Growth Management Hearings Board and WA Supreme Court decisions
- Summary of proposed LAMIRDs and areas outside LAMIRDs

Growth Management Act

Rural element required in comprehensive plans:

- “Counties shall include a rural element including lands that are **not** designated for urban growth, agriculture, forest, or mineral resources...”

RCW 36.70A.070(5)

Growth Management Act

Rural element required in comprehensive plans:

- “The rural element shall include measures that apply to rural development and protect the **rural character** of the area...”

RCW 36.70A.070(5)(c)

Growth Management Act

Variety of density and uses:

- “The rural element shall provide for a **variety of rural densities, uses**, essential public facilities, and rural governmental services needed to serve the permitted densities and uses. To achieve a variety of rural densities and uses, counties may provide for clustering, density transfer, design guidelines, conservation and other **innovative techniques** that will accommodate appropriate rural densities and uses...”

Growth Management Act

LAMIRDs

- “...the rural element may allow for **limited areas of more intensive rural development**, including necessary public facilities and public services to serve the limited area as follows:”

RCW 36.70A.070(5)(d)

Growth Management Act

LAMIRDs [Type I]

- “...the infill, development, or redevelopment of existing commercial, industrial, residential, or mixed-use areas, whether characterized as shoreline development, villages, hamlets, rural activity center, or crossroads developments.”

Growth Management Act

LAMIRDs [Type I]

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

Growth Management Act

LAMIRDs [Type I]

- “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)(C)

Growth Management Act

LAMIRD boundaries [Type I]

- “The county shall establish the **logical outer boundary** of an area of more intensive rural development. In establishing the logical outer boundary the county shall address:”

Growth Management Act

LAMIRD boundaries [Type I]

- “...shall address:
 - (A) the need to preserve the character of **existing 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.”

Growth Management Act

LAMIRDs [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.”

Growth Management Act

LAMIRDs [Type III]

- “The intensification of development on lots containing 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.”

Growth Management Act

LAMIRDs [Type III]

- “Rural counties may allow the expansion of small-scale businesses as long as those small-scale businesses **conform with the rural character** of the area as defined by the local government according to RCW 36.70A.030(15).”
- Type I boundary criteria do not apply

2005 Growth Management Hearings Board Decision

Out of compliance: *Comprehensive Plan Designations*

- “The designation criteria in the descriptors for *small towns and crossroads communities, crossroads commercial, resort and recreational subdivisions, suburban enclaves, and transportation corridors* allow the creation of *more intensive areas of rural development that do not comply* with RCW 36.70A.070(5)(d). The failure to revise those descriptors therefore fail[s] to comply with RCW 36.70A.130. The failure of the County to revise the designations of proto-LAMIRDs on Map 8 in accordance with the LAMIRD criteria of RCW 36.70A.070(5)(d) also fails to comply with RCW 36.70A.130. The County’s record of its LAMIRD designations *must show the analysis used* to arrive at the designation and mapping of them.”

2005 Growth Management Hearings Board Decision

Out of compliance: Rural Zoning

- “The rural zones: **RR1** zone (1 dwelling unit per acre); **RR2** zone (2 dwelling units per acre); **RR3** zone (3 dwelling units 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); **allow residential densities that are not rural** in the rural areas that are not in limited areas of more intensive rural development pursuant to RCW 36.70A.070(5)(d). They do not, therefore, comply with RCW 36.70A.070(5). The County failed to revise these zones as required by RCW 36.70A.130.”

Appeals

- Superior Court: Overturned 2006
- Court of Appeals: Upheld 2007
- State Supreme Court: Upheld/Remanded 2009
 - Upheld requirement to revise Comprehensive Plan designations per GMA LAMIRD rules
 - Remanded zoning issue to Hearings Board to reconsider based on criteria other than 5-acre “bright line”

2009 WA Supreme Court Decision

Reversed: Rural Zoning

- “We reverse the Court of Appeals’ holding that the Board did not improperly apply a bright line rule in addressing Futurewise’s challenge to the rural density designations; the Board did in fact rely on a bright line rule of one residence per five acres in rural areas (other than LAMIRDs).”

167 Wn.2d 723, 735, 222 P.3d 791

2009 WA Supreme Court Decision

Upheld: Comprehensive Plan Designations

- “We ... affirm the Court of Appeals’ decision upholding the Board’s holdings that the County’s comprehensive plan does not comply with the GMA’s LAMIRD provisions and that **the County was required but failed to revise the plan to include the LAMIRD criteria and then apply them** in establishing areas of more intense rural development.”

167 Wn.2d 723, 735, 222 P.3d 791

2009 WA Supreme Court Decision

Order:

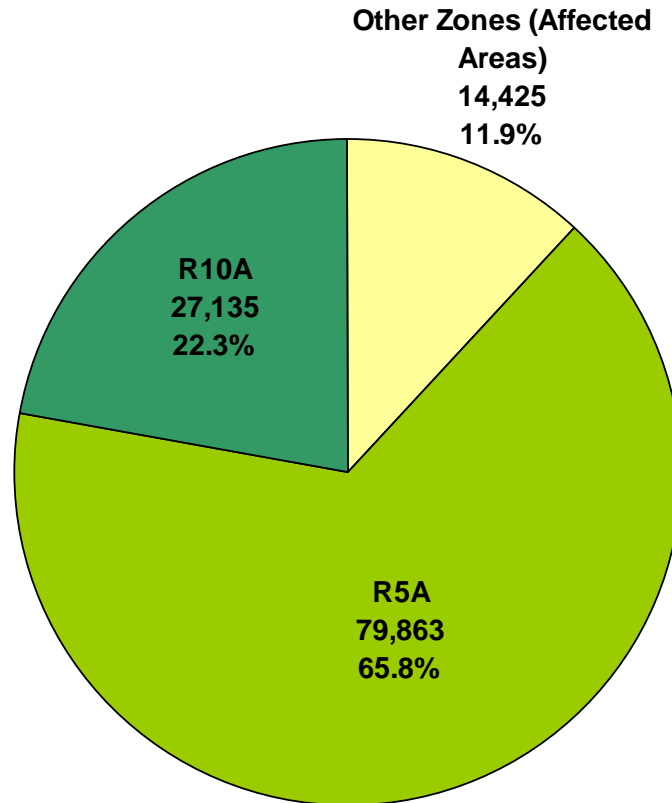
- “Accordingly, this matter is remanded to the Board for **reconsideration of Futurewise’s challenges to the rural density designations without applying a bright line rule.** In addition, the **County must revise its comprehensive plan to conform to the LAMIRD provisions of the GMA and then apply the statutory criteria** to establish appropriate areas of more intensive rural development. As noted, it is possible that some of the County’s existing areas of more intense development will be found to conform to the statutory criteria. But these criteria must be incorporated into the comprehensive plan and then applied before any such determinations can be made.”

Affected Areas

- Affects about 17,000 acres in:
 - Noncompliant Comprehensive Plan designation,
 - Noncompliant zoning,
 - Or both

- Affects 12% of rural lands (non-urban, non-resource AG/forestry, non-federal)

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

Public Participation

- Stakeholder group meetings (September 2008)
- Phase 1 public meetings (November 13 & 14, 2008)
 - General information and rural character discussion
- Phase 2 public meetings (March 4 & 5, 2009)
 - Policy direction
 - Postcard notice sent to all owners of potentially affected properties (more than 17,000)
- Phase 3 public meetings (June 30, July 1)
 - Followed first draft of maps and text

Planning Commission Meetings

■ Work Sessions:

- December 11, 2008
- April 23, 2009
- May 14, 2009
- July 23, 2009
- August 13, 2009
- September 10, 2009
- September 22, 2009
- October 8, 2009 (Final Recommendation)

■ Public Hearings:

- April 16, 2009, following Phase 2
- July 9, 2009, following Phase 3 and 1st draft
- September 8, 2009, following 2nd draft

County Council Meetings

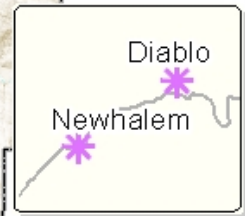
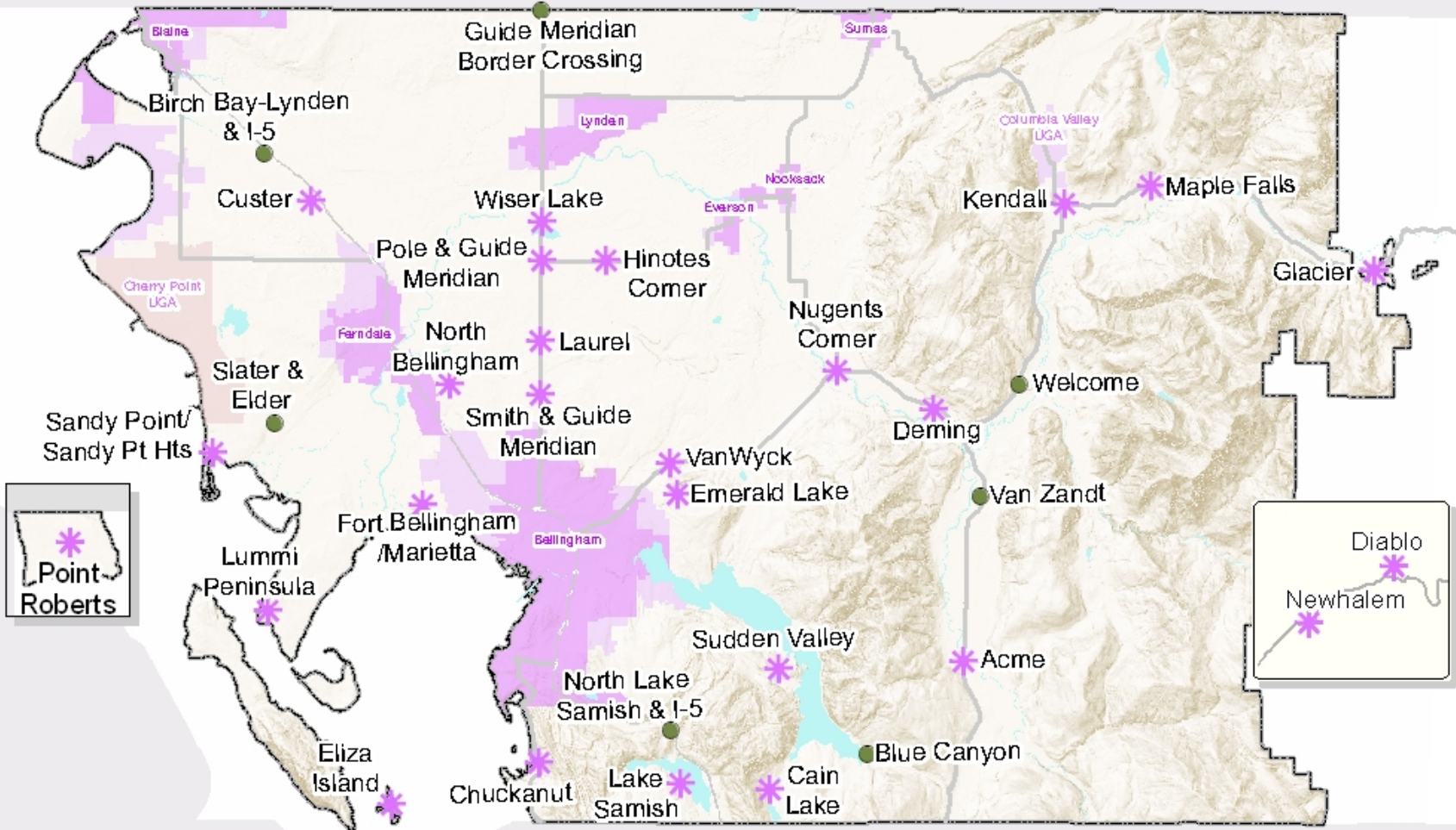
■ Work Sessions:

- January 26, 2010
- March 30, 2010
- April 13, 2010
- April 27, 2010
- May 11, 2010
- May 25, 2010
- June 8, 2010
- June 22, 2010
- July 13, 2010
- September 14, 2010
- September 28, 2010
- October 12, 2010
- November 9, 2010
- November 23, 2010
- December 7, 2010
- January 11, 2011
- January 25, 2011
- February 8, 2011
- February 15, 2011
- February 17, 2011
- February 22, 2011
- February 25, 2011
- March 1, 2011
- March 4, 2011

Proposed Amendments

- Comprehensive Plan text (includes LAMIRD criteria)
- Comprehensive Plan maps (LAMIRD boundaries)
- Zoning maps
- Zoning Code text

Proposed LAMIRDs



Legend

Proposed LAMIRDs

- Type I Rural Comm.
- Type III Rural Svs.
- Urban Areas (Cites & UGA)



March 8, 2011 by gkl

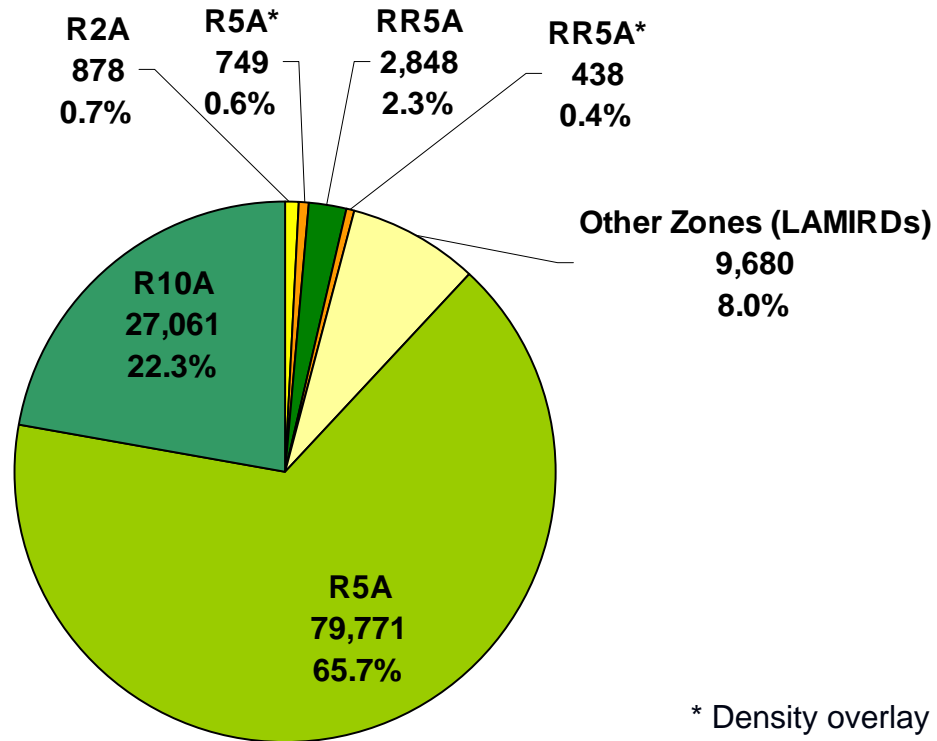
Inside the LAMIRDs

- Most existing residential zones retained (RR-1, RR-2, RR-3, etc.)
- Commercial and industrial zoning retained, revised to reflect 1990 size, scale, use, or intensity in Type I LAMIRDs (new RGC, RIM zones, changes to STC, NC, TC, etc.)
- 26 Type I LAMIRDs, 7 Type III LAMIRDs (8% of Rural lands)

Outside the LAMIRDs

- Retain R-2A zoning where average parcel size is 2.5 acres or less, based on its being consistent with the established rural character of those areas. **878 acres total (0.7% of Rural lands)**
- Density 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. **1,188 acres total (1% of Rural lands)**
- Rezone to one dwelling per **5 acre density (2.3% of Rural lands)**

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.

Schedule

- Work session: March 14, 11:00 a.m.
- Introduction of ordinance: March 15 Council meeting
- Next public hearing: March 29 Council meeting
- Written record open

Information

- General information on Rural Element
<http://www.whatcomcounty.us/pds/plan/long/projects/lamird/index.jsp>
- Proposed changes (draft text and maps)
<http://www.whatcomcounty.us/pds/plan/long/projects/lamird/proposed.jsp>
- Public process (documents and public comments)
<http://www.whatcomcounty.us/pds/plan/long/projects/lamird/updateprocess.jsp>
- Send comments to pds@co.whatcom.wa.us
- Planning and Development Services, 5280 Northwest Drive,
360-676-6907