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**J.E. "Sam" Ryan**  
**Director**

## **M E M O R A N D U M**

**TO:** Whatcom County Council

**THROUGH:** J.E. "Sam" Ryan, Director *JER*

**FROM:** Roxanne Michael, AICP, Long Range Planning Supervisor  
Gary Davis, AICP, Senior Planner *GAD*

**DATE:** April 5, 2011

**SUBJECT:** Rural Element Update

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At its April 12 Special Committee of the Whole meeting, the County Council will consider changes to the proposed Rural Element amendments following public testimony at the March 29 public hearing. This memorandum is intended to identify some key issues that have been discussed in recent weeks (by Council members, the County Executive, and public comments) and propose alternatives.

### **Building size**

Both the Planning Commission recommendation and PDS draft amendments of September 7, 2010 include proposed maximum building sizes in commercial and industrial zones. These maximums were based on the largest buildings existing in these zones in 1990 per PDS analysis of Assessor's records. This was an effort to address RCW 36.70A.070(5)(d)(i)(C) which requires that in Type I LAMIRDs, "Any development or redevelopment in terms of building size, scale, use, or intensity shall be consistent with the character of the existing areas." Per RCW 36.70A.070(5)(d)(v), existing areas are those existing on July 1, 1990. Recent County Council votes changed the maximums to 30,000 square feet for commercial and industrial zones in Rural Communities (Type I LAMIRDs), and set to maximums in Rural Business designations (Type III LAMIRDs).

The County Executive has expressed concerns with the Council's approach in his March 10, 2011 memorandum<sup>1</sup>. Staff proposes an alternative approach, establishing the maximums based on the 1990 data, and allowing an appeal process where the applicant would have the opportunity to show that a larger size is consistent with the 1990 built environment in Rural Community designations (Type I LAMIRD). In Type III LAMIRDs, where RCW

<sup>1</sup> <http://www.whatcomcounty.us/pds/plan/long/projects/lamird/pdf/20110310-kremenmemo.pdf>

36.70A.070(5)(d)(iii) describes "small scale" businesses (but provides no definition of small scale) PDS proposes a maximum of 35,000 square feet, which is based on the threshold between what is currently allowed for retail establishments in Light Impact Industrial (LII) and General Commercial (GC) and "large commercial retail," which can be up to 65,000 square feet in urban growth areas only.

**Example: Alternative building size provision for General Comm. (GM):  
20.67.300 Maximum building size.**

.321 In a Rural Community designation, the allowable floor area shall not exceed 20,000 square feet, or a size that is consistent with the size, scale, or intensity of similar uses that existed on July 1, 1990 within the areas currently zoned GM and designated as a Rural Community. Determination on consistency with 1990 uses shall be made by the planning and development services department and may be appealed per the process described in Section 20.84.240.

.321 In a Rural Business designation, the maximum allowable floor area is 35,000 square feet.

The alternative wording would be applied to the Rural Industrial Manufacturing (RIM), Rural General Commercial (RGC), and Small Town Commercial (STC) zones, but with a 12,000 square feet maximum in Rural Communities, which is more consistent with the 1990 building size data for those zones.

### **Lake Whatcom, South Bay zoning**

The proposed changes in the March 15 draft ordinance outside the proposed Sudden Valley LAMIRD are:

- Change the Residential Rural, one dwelling per acre and two dwellings per acre (RR-1 and RR-2) zoning to Rural Residential one dwelling per five acres (RR-5A) with a density overlay that could permit densities no greater than one dwelling per acre (256 acres total).
- Retain 157 acres of Rural one dwelling per two acres (R-2A) zones where existing average parcel sizes are well below one acre, and rezone the remainder, 91 acres, to R-5A with the same density overlay.

A large majority of the 700-plus existing lots in the RR-1, RR-2 and R-2A areas are too small to subdivide under the current zoning. PDS estimates the proposed rezoning would reduce the number of potential new lots in these areas from 72 to 17 (see chart below).

In the 91 acres near Lake Whatcom Boulevard currently zoned R-2A and proposed for R-5A with the density overlay, staff has studied the potential effect of the proposed density overlay (proposed WCC 20.32., which allows a minimum lot size equal to the average size of residentially *developed lots* within 500 feet of the parcel being subdivided (if at least 70% of those lots are developed). In this area, the developed lots that would be used in the calculation include small nonconforming lots in the R-2A zone and developed lots in the neighboring RR-2 zone. Thus, while the average lot size is 2.8 acres in the area, when an overlay calculation is done on some parcels (averaging only the smaller developed lots), new minimum lot sizes for several lots approach one unit per acre. However, to

be eligible to apply the overlay calculation to a subdividing parcel, 70 percent of the surrounding parcels must be residentially developed. Because most lots in the area do not meet this eligibility requirement, staff estimates that only one lot in this area could be subdivided as a result of the overlay (the one closest to the RR-2 developed lots near Strawberry Point), and that parcel is State-owned. Still, the overlay in its current form creates a situation where a lot that could not be subdivided today (albeit in this case one State-owned lot) could be subdivided under the proposed overlay. Alternative approaches that would solve this issue would be to adjust the overlay calculation in the Rural (R) zone to allow densities no greater than one dwelling per two acres (proposed WCC 20.36.253) or simply rezone the area to R-5A without the density overlay. The only other location in the County where R-2A land is proposed to be rezoned to R-5A with the overlay is in the Ft. Bellingham/Marietta area.

Based on the parcels in its geographic information system (GIS) analysis database (using GIS acreage and applying the overlay criteria and formula to lots larger than 2 acres), PDS has prepared the following estimate of potential new lots<sup>2</sup> outside the proposed Sudden Valley LAMIRD in the Lake Whatcom and South Bay maps under three scenarios: current zoning, proposed zoning per the March 15 ordinance, and rezoning to one-per-five-acre density without the overlay.

Area	Potential New Lots				
	Current	Proposed		Five Acre	
R-2A	9 <sup>3</sup>	R-2A	9	R-5A	1 <sup>4</sup>
R-2A (LW Blvd)	12 <sup>5</sup>	R-5A*	5 <sup>6</sup>	R-5A	3 <sup>7</sup>
RR-1	30	RR-5A*	3 <sup>8</sup>	RR-5A	0
RR-2	21	RR-5A*	0	RR-5A	0
Total	72		17		4

\*subject to density overlay

If the Council wishes to consider rezoning to a density of one dwelling per five acres for all the RR-1, RR-2, and R-2A zoning in the Lake Whatcom watershed, PDS has prepared an alternative map showing RR-1 and RR-2 areas to be rezoned to RR-5A, and R-2A areas to be rezoned to R-5A.

**Emerald Lake**

At the March 29, 2011 public hearing, a major property owner in the area asked the Council to remove his property from the proposed Emerald Lake Rural

<sup>2</sup> Potential new lots are additional lots that could be created in addition to but not including the parent parcel (. This estimated number assumes no barriers to subdivision such as critical areas or slopes. This estimated number of new lots is likely a larger number than would actually occur.  
<sup>3</sup> Six potential new lots on parcel 380432220473, and one each on pcls 380432395245, 380429025020, 370422393319  
<sup>4</sup> One potential new 5-acre lot on pcl 380432220473  
<sup>5</sup> Ten potential new lots on pcl 380431074045, and one each on State-owned pcls, 380336502071, and 380336328205  
<sup>6</sup> Two potential new lots on State-owned pcl 380336198147 per the overlay calculation, and three potential new five-acre lots on pcl 380431074045  
<sup>7</sup> Three potential new 5-acre lots on pcl 380431074045  
<sup>8</sup> Three potential new lots on pcl 370427256371

Community (Type I LAMIRD). PDS has prepared an alternative map showing the same boundary proposed in the September 7, 2010 draft, with the affected area outside the LAMIRD proposed for R-5A and RR-5A zoning.

### **Birch Bay Lynden & I-5**

At its March 1 work session, the Council voted to expand the boundary of the Birch Bay-Lynden & I-5 Rural Business designation (Type III LAMIRD) to include two lots to the south, one containing an existing storage business and one vacant. There was a motion to exclude the vacant lot but that was not approved. At a later meeting, Council member Kershner asked whether the vacant lot had been removed and PDS erroneously stated it had been. If the Council wishes to consider a motion to remove the vacant lot from the LAMIRD, PDS has prepared an alternative map showing the storage business parcel in the LAMIRD but not the vacant (the southernmost) parcel.

### **Lake Whatcom schools**

Proposed Comprehensive Plan Policy 2MM-10 states, "Encourage the location of public facilities in Rural Communities within the Lake Whatcom watershed to reduce vehicle miles traveled within the watershed." PDS proposed that policy following an August 2009 comment from the Bellingham School District, which has been considering a school site in the Sudden Valley LAMIRD. This policy was included in the October 2009 Planning Commission recommendation. Commenters<sup>9</sup> have pointed out that the term "public facilities" is broadly defined in state law and could open the door to a variety of facilities. If the Council wishes to address this concern, staff proposes an alternative wording, replacing "public facilities" with "public services such as schools," and replacing "to reduce" with "that would likely reduce."

### **Buffer adjoining resource lands**

In the October 2009 Planning Commission recommendation for zoning code amendments, commercial and industrial zones contained a provision to increase buffer areas to 50 feet (100 feet for newly-created lots) on lots adjacent to rural and resource designations. The Council removed those increased buffers from the draft on March 4. Council has recently received comments<sup>10</sup> concerning spacing between business and agricultural uses, citing potential blockage of sun exposure as well as conflicts resulting from fertilizer and pesticide use. One comment notes the requirement in RCW 36.70A.060(1)(a) for counties to ensure that uses adjacent to agricultural, forest, or mineral resource lands not interfere with resource uses.

Currently the zoning code requires no buffer on commercial or industrial lots adjoining resource lands. Commercial zones currently require 25-foot

<sup>9</sup> <http://www.whatcomcounty.us/pds/plan/long/projects/lamird/pdf/20110313-melious.pdf>, p. 4;  
<http://www.whatcomcounty.us/pds/plan/long/projects/lamird/pdf/20110329-harris.pdf>, p. 4.

<sup>10</sup> <http://www.whatcomcounty.us/pds/plan/long/projects/lamird/pdf/20110329-steensma.pdf>, p. 2;  
<http://www.whatcomcounty.us/pds/plan/long/projects/lamird/pdf/20110324-farmfriends.pdf>, p.

landscaped buffers adjoining residential and rural zones and industrial zones require a 50-foot buffer with 25 feet of that landscaped. Because the purpose of a buffer from resource uses is different from that of a buffer from residential uses, aesthetics are not as important and landscaping requirements are not appropriate. If the Council wishes to add buffer standards, PDS suggests an alternative approach whereby a non-landscaped building setback of at least 50 feet is applied adjacent to lot lines adjoining lots designated for resource uses, and no increase to 100 feet for newly-created lots.

**Example: Alternative buffer provision for General Comm. (GM):  
20.67.550 Buffer area.**

.552 When a parcel situated within this district adjoins Agriculture, Commercial Forestry, Rural Forestry, or Mineral Resource Area comprehensive plan designation (as designated on map 8 of chapter 2 of the Whatcom County Comprehensive Plan), setbacks from property lines adjoining this designation shall be increased to 50 feet from the adjoining lot lines. Buffer areas may include public rights-of-way or granted vehicular access easements in a subdivision, binding site plan, or short subdivision.

If you have any questions regarding the Rural Element update, please contact Gary Davis at extension 50246.