



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

**TO:** Whatcom County Planning Commission

**THROUGH:** David Stalheim, Director

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

**DATE:** September 18, 2009

**SUBJECT:** Rural Element – LAMIRD proposal changes

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On September 10, 2009, Planning Commission held a work session to discuss public comments received before and during the public hearing held two days before, and to give direction on possible revisions to the proposed Rural Element amendments based on those public comments. The Planning Commission will continue that discussion at its September 22 work session.

This memorandum summarizes the direction given by the Planning Commission on September 10, and outlines options for responding to the remaining comments not addressed by the Planning Commission on September 10. Staff will prepare a final draft of the amendments per the Planning Commission's response to staff's proposals.

### September 10 Direction

At the September 10, 2009 work session the Planning Commission directed the following:

- Acme: Make no change to the LAMIRD and zoning boundaries (*requested by Merhaut 9/8/09*), as none of the lots outside the proposed LAMIRD boundary meet criteria for inclusion in a LAMIRD.
- Axton & Guide Meridian: Add one lot on the north side of the LAMIRD (*Kirner 8/24/09*), as there is documentation of commercial use on the property in 1990; do not add lots on the west side of the LAMIRD (*Langabeer & Tull for Johnson 9/8/09*), as they do not meet criteria for inclusion in a LAMIRD.
- Birch Bay-Lynden & I-5: Do not add parcels to the east of the LAMIRD (*Swanson for Gold Star 9/4/09*), as they do not meet criteria for inclusion in a LAMIRD.
- Glacier: Extend the LAMIRD boundary to the west to include all the area currently zoned STC (*Stratis, Russell, Engel, Baker 9/8/09 testimony*) because a water trunk line existed in

Mount Baker Highway in 1990, and including the area is consistent with preserving the natural neighborhood in the historic town center.

- Hinotes Corner: Add 5 lots on the east side of the LAMIRD (*Taysi 9/8/09*) because adding the area would be consistent with preserving the natural neighborhood and prevents an abnormally irregular boundary (the Planning Commission did not consider the request to zone the area STC); Remove two large lots and a small-lot subdivision on the southwest side of the LAMIRD (as had been requested to be included by Pat Hammell on July 27 and added to the proposed LAMIRD in the August 6 PDS proposal), as the area would extend sprawl development to the west; Do not add a large AG-zoned lot on the south side of the LAMIRD (*Starkenburg for Brar 7/23/09*), as it does not meet criteria for inclusion in a LAMIRD.
- Laurel: Add one lot on the east side of the LAMIRD (*Burton 7/23/09*), as it was part of a commercial use in 1990; Add one lot on the south side of the LAMIRD (*Starkenburg for Clary 9/8/09*), as it contained commercial uses in 1990. As was discussed at the September 10 meeting, the lot north of the Burton lot may also have been part of a commercial use in 1990, and is part of a commercial use currently – the Planning Commission may want to revisit this map to consider adding the additional lot to the LAMIRD.
- Smith & Guide Meridian: Do not add a portion of one lot on the east side of the LAMIRD (*Swanson for Hines, Mansour 9/8/09*), do not add a lot on the north side of the LAMIRD (*Sterka 9/8/09*), or the area south to the Bellingham UGA (*Roe, 9/8/09*) as they do not meet criteria for inclusion in a LAMIRD.

### Remaining LAMIRD Boundary Issues

The following issues involving potential changes to LAMIRD boundaries were not resolved at the September 10, 2009 work session:

- Kendall: PDS has proposed a LAMIRD boundary extending from the elementary school on the west to small lots containing residences in 1990 on the east. The boundary includes lots that were not more intensively developed in 1990, which is permitted by GMA, but excludes a three acre portion of an undeveloped five-acre parcel to prevent an abnormally illogical boundary on the north side of the LAMIRD. Futurewise (*9/4/09*) notes the proposed Kendall LAMIRD includes “extensive areas of undeveloped land” and should be “tailored [to] the existing more intensive built environment.”

The draft Foothills Subarea Plan provides some guidance on the community’s vision for small towns in the east county. Proposed Goal LU3 reads: “Enhance the small towns of Deming, Kendall, Maple Falls, and Glacier as vital, vibrant, and distinct areas, within which the community can meet, mingle, shop, and take care of daily errands,” and Policy LU3-F reads: “Acknowledge existing patterns of commercial uses and to provide for additional future development by designating certain areas as concentrated centers for commercial activities.”

- Option 1: Leave LAMIRD boundary as proposed, providing for limited mixed-use infill development within a natural neighborhood.

- Option 2: Direct staff to revise LAMIRD boundary to remove residential parcels on the east, concentrating the LAMIRD on the nonresidential uses near the main highway intersection, reducing potential infill development.

The owner of the five acre parcel of which three acres is proposed to be excluded (*Balolia, 7/23/09*) has requested the boundary be revised to include the entire parcel, as the remaining portion of the parcel would be too small to develop commercially.

- Option 1: Leave LAMIRD boundary as proposed, avoiding an abnormally irregular boundary.
  - Option 2: Revise the boundary to include the entire parcel, avoiding a split zoning on the parcel.
- Point Roberts: PDS has proposed including all the Point Roberts area in a LAMIRD, including more intensively developed areas in 1990 as well as undeveloped areas zoned R-5A. The international border and the coastline provide a clear physical boundary and contain the community within a unified planning area. Proposed Policy 2JJ-5 prevents R-5A parcels within Rural Center LAMIRDs from being rezoned to allow more intensive uses and densities. Futurewise proposes excluding the undeveloped areas from the LAMIRD, citing the impact of continued urban development on Puget Sound water quality. Staff believes Policy 2JJ-5 adequately limits infill development to areas already zoned for more intensive development, and the large boundary avoids irregular boundaries that would result from excluding the pockets of R-5A land, and allows Point Roberts to continue to plan as a unified non-UGA community, as envisioned in the 2001 Point Roberts Subarea Plan.
    - Option 1: Leave LAMIRD boundary as proposed, following clear physical features, avoiding an abnormally irregular boundary, and encompassing a natural neighborhood.
    - Option 2: Direct staff to revise the LAMIRD boundary to exclude undeveloped areas, and include smaller areas where the 1990 built environment predominates.
  - Van Wyck: PDS has proposed a Rural Business Type I LAMIRD boundary that includes parcels developed with non-residential uses in 1990, and some in between that were developed with residential uses in 1990. The boundary excludes land north of Mt. Baker Highway and west of Noon Road, as they are separated from the other parcels by those two roads and were not developed with non-residential uses in 1990. The owner of one of the commercial properties included in the LAMIRD on the south side of the highway (*Marr 8/10/09 and 9/8/09*) requests the property across the highway be included in the LAMIRD, as he had planned on moving his business there. The owner of a small adjacent property fronting on Noon Road (*Erickson 9/14/09*) has also asked to be included (the use was residential in 1990 but currently commercial).
    - Option 1: Leave LAMIRD Boundary as proposed.
    - Option 2: Revise the boundary to include the parcels north of Mt. Baker Highway and west of Noon Road, to include a more intensively developed lot and an undeveloped lot within a logical outer boundary.
  - Laurel: Revisit to consider adding the commercial lot north of Burton (see discussion in September 10 Direction – Laurel, above).

## Residential LAMIRDs

One of the ten policy issues discussed at the Planning Commission's April 23 work session was whether to designate Type I LAMIRDs in residential areas lacking a commercial element that is part of a "Rural Center" Type I LAMIRD designation. The Planning Commission directed staff to limit Type I LAMIRDs to areas that served as hubs for public and commercial services in 1990. A letter from Langabeer & Tull (9/8/09) correctly points out that GMA allows for residential areas to be designated as Type I LAMIRDs as well. Jepson (8/3/09) requests the Sandy Point area be designated as a LAMIRD, as it has a water utility capable of serving additional development.

Affected areas without a commercial or industrial component include Cain Lake, Glacier Springs, Glen at Maple Falls, Lummi Peninsula/Gooseberry Point, Guide Meridian North, Lake Samish, Sandy Point, South Bay, Wickersham, and Wisner Lake East. Other areas such as Fort Bellingham, Chuckanut, and Emerald Lake are adjacent to Urban Growth Areas (UGAs) and would therefore not meet the criterion set by proposed Policy 2HH-1(A)(3). (Sandy Point is adjacent to the Cherry Point Major Port Industrial UGA, which does not have a residential component.) Portions of the Wisner Lake East and Lummi Peninsula areas are adjacent to other recommended LAMIRDs (Wisner Lake and Gooseberry Point, respectively) and those LAMIRD boundaries could be extended to include portions of these areas meeting LAMIRD criteria.

The Planning Commission's April 23 direction to limit Type I Rural Center designations to mixed-use areas was a policy choice that limits more intensive infill to the mixed use areas where employment and shopping opportunities exist, as well as public services such as schools, libraries, post offices, and public transportation. An alternative to that choice is to create a separate land use designation for exclusively residential areas (which would also Type I LAMIRDs) and to revise LAMIRD maps to include lots that meet state and county LAMIRD criteria. The alternative approach would allow additional infill development on the remaining subdividable lots in these areas.

- Option 1: Designate no residential Type I LAMIRDs, directing more intensive residential infill to Rural Center Type I LAMIRDs.
- Option 2: Direct staff to prepare a new comprehensive plan land use designation to describe Type I LAMIRDs with exclusively residential uses, revise zoning code proposals to be consistent with that designation, and revise maps to show boundaries for such areas based on the land use designation description and criteria.

## Zoning Districts

PDS has received several requests for revised zoning districts within proposed LAMIRDs:

- Birch Bay-Lynden & I-5: Retain Gateway Industrial (GI) instead of proposed STC (*Ware, 9/8/09 testimony*), Staff recommends modifying the zoning here from the proposed STC to RGC
- Hinotes Corner: Small Town Commercial (STC) instead of existing R-2A (*Taysi 9/8/09*),
- Laurel: Rural General Commercial (RGC) instead of existing R-5A (*Calvary Chapel, 8/25/09*) to allow for future commercial uses for church property,
- Point Roberts: RGC instead of existing Rural Residential (RR-1) for expansion of a business onto an adjacent lot (*Nielson, 9/1/09*),

- Wiser Lake: RGC instead of existing RR-2, for expansion of a business now operating under a conditional use permit (*Starkenburg-Kroontjie for Hytech Roofing 8/24/09 and 9/8/09, and Mariad 8/20/09*).

The Birch Bay-Lynden & I-5 request is to retain the GI zoning for the existing Birch Bay Square commercial development. Staff is working with the owner to make the development standards as compatible as possible with the existing development, and recommends RGC zoning instead of the currently proposed STC. The Birch Bay-Lynden & I-5 area is more similar to areas along the Guide Meridian, than to small towns throughout the county such as Deming and Glacier.

The other requests are for intensification of zoning to expand commercial or establish new uses beyond what exists currently. Because these properties would be within Type I LAMIRDs, they would be able to apply for rezoning after the Rural Element Update.

- Option 1: Except for the Birch Bay-Lynden & I-5 area which will go from STC to RGC, make no change to proposed zoning district boundaries; applicants would be required to apply for rezoning and have the request evaluated through a separate public process – *staff recommendation*
- Option 2: Direct staff to revise Rural Element Update proposal maps to show requested zoning classifications.

### **Five- and Ten-acre Zoning Districts**

At its April 23, 2009 work session the Planning Commission has directed staff to propose ten-acre lot size zoning (R-10A or RR-10A) for the portions of the affected areas not falling within a LAMIRD boundary. Planning Commission members and Futurewise (9/4/09) have suggested there may be locations within those areas where five-acre lot size zones may be more appropriate.

Most of affected area lies within zoning districts that allow lot sizes smaller than five acres, and much of that area has been subdivided under that (noncompliant) zoning over the past decades. PDS estimates that only about 140 of the parcels within the affected areas (and not already zoned AG or R-10A) are now greater than ten acres in size -- less than one percent. On the remaining 99 percent of the parcels, there is no practical difference between five acre and ten acre zoning. Existing lots smaller than ten acres would have a legal nonconforming lot size (permitted residential and rural uses would not change so any such existing uses would be permitted rather than nonconforming) and only where existing lot sizes are larger than ten acres could a property in a five-acre zone be subdivided or have a permitted accessory dwelling unit. However, the Planning Commission's April 23 direction in favor of a ten-acre lot size is a policy choice, asserting that ten acres is a more appropriate minimum lot size in rural areas than five acres. (It should be emphasized that the Rural Element Update does not affect rural areas other than those affected by the Futurewise vs. Whatcom County decision.)

When applied to the Rural Element Update proposal maps, this policy direction results in a few pockets of R-10A or RR-10A zoning adjacent to five-acre zoning outside the affected areas, on lots that do not approach ten acres in size. Such situations occur on the following maps: Lake Whatcom, Maple Falls, Nugents Corner, and Van Wyck. Similar situations occur in Pole & Guide Meridian, Smith & Guide Meridian, Laurel, Acme, and Custer, though the areas are also adjacent to five or ten acre zoning that is within an agricultural rural study area. The Planning Commission may want to discuss criteria for proposing five-acre zoning as opposed to ten.

- Option 1: Make no change to the proposed zoning district boundaries; all affected areas outside LAMIRDs would have ten-acre zoning.

- Option 2: Direct staff to revise proposed maps based on criteria by which some areas should be proposed for five-acre zoning.

## Zoning Code Text

PDS has received a number of suggestions for further changing the proposed WCC Title 20 text amendments. The suggestions affect six different chapters, and are outlined below.

### 20.36 Rural (R) District

- *Outdoor recreation facilities (Trillium 9/8/09 testimony)*. PDS received a letter requesting a modification to 20.36.165 having to do with outdoor recreation facilities. Staff proposes no changes to this section, but does propose changes to the definition as indicated under WCC 20.97 below.

### 20.59 Rural General Commercial (RGC) District

- *Grocery Stores (Ware 9/8/09 testimony)*. Staff proposes modifying the square footage limitations for grocery stores in the RGC under section 20.59.320 “Maximum building size:

Add 20.59.322 “Grocery stores shall not exceed a maximum floor area of 35,000 square feet.”

- *Hotels/Motels (Ware 9/8/09 testimony)*. Staff proposes adding hotels and motels as a conditional use under RGC 20.59.204:

Add 20.59.204 “Hotels and motels.”

- *Storage facilities (Black, Honcoop 9/8/09 testimony)*. Staff proposes the following changes to the RGC district:

Add new section 20.59.105 under accessory uses: “Indoor storage of durable and nondurable goods.”

Add a new section 20.59.150 “Administrative approval uses.”

Add 20.59.151 “Rental storage establishments.”

Add 20.59.152 “Outdoor storage of durable and nondurable goods; provided neighboring uses are adequately screened.”

Add 20.59.153 “Assembly and manufacturing of prefabricated wood building and components.”

Delete 20.59.201 under conditional uses “Rental storage establishments.”

- *Building size*. Size limits outlined in the Title 20 proposal under RGC were based on the 1990 existing built environment within the GC zone in rural areas. For example, the Olympic Boat Center had (and still has) a building of approximately 11,300 square feet. Staff proposes no changes here.
- *Setbacks from adjoining property*. PDS staff reviewed setbacks across all commercial and industrial districts after Planning Commission dialog on August 13, and included a consistent 50 foot setback within all rural commercial and industrial districts in the August 20 draft of the Title 20 amendments. Staff also included ‘Agriculture’ in the list of zoning districts that triggered the setback requirements based on Planning Commission direction.

Three options are outlined for how to proceed with setbacks in the RGC (and other rural – commercial) zoning districts:

- o Option 1. Make no further changes to the current proposal
- o Option 2. Maintain the originally-proposed 25 foot setback (same as GC), while maintaining inclusion of agriculture adjacency
- o Option 3. Require increased 50 foot setbacks only in the commercially-zoned areas (RGC, NC, STC, TC, RC) that border a Rural or Resource comprehensive plan designation (with the intent of having consistent 50 foot setbacks along the outer boundary of the LAMIRD, but not between zoning districts within a LAMIRD) - *staff recommendation*

It should be noted that staff recognize a variety of ongoing issues in relation to setback, buffer and landscaping requirements, and will review these issues as part of the 2010 work plan in order to develop better standards.

20.61 Small Town Commercial (STC) District

- *Grocery Store as permitted use (Stoner 9/8/09 testimony).* The current proposal includes permitted up to 10,000 sf; conditional up to 35,000 sf. Staff proposes no changes here.
- *Retail and Service establishment size (Ware testimony).* The current proposal includes permitted retail and service establishments up to 2,500 sf; administrative approval up to 5,000 sf; and conditional approval up to 7,500 sf. The request was to consider internal expansions within an existing building that are more flexible than these square footage limits. Staff proposes the property in question be reconsidered to go from GI to RGC, rather than to STC as is the current proposal.
- *Multi-family (Starkenburg-Kroontje for Timmins 9/8/09).* Staff proposes the following changes to the STC district related to multi-family residential uses:

Change section 20.61.066 under permitted uses:

- .066 One single-family dwelling ~~or duplex~~ per lot of record, or duplexes subject to:
- (1) Health department requirements regarding soil type and water supply.
  - (2) A deed restriction recorded with the Whatcom County auditor is attached to the lot(s) at the time of building permit issuance stating that the dwelling(s) is located in a Small Town Commercial Zone and buyers should be aware that commercial uses will be allowed on surrounding parcels and owners have no grounds for protest.
  - (3) This permitted use is only allowed on lots created as of December 1, 2009.
  - (4) Duplexes are subject to the density provisions of 20.61.350.

Change section 20.61.350 Maximum density as follows:

- (1) Hotels and motels shall not exceed a floor area ratio (FAR) of .60.
- (2) Duplexes may not exceed a maximum gross density of 6 dwelling units/acre.
- *Building size.* Size limits outlined in the Title 20 proposal under STC were based on the 1990 existing built environment within the STC zone in rural areas. For example, Maple Falls had (and still has) a building of approximately 8,000 square feet that is mixed use – with a variety of business uses on the ground floor, and residential uses on the upper floor. Staff proposes no changes here.

20.67 General Manufacturing (GM) District

- *Building Size (Krause 9/8/09 testimony).* Size limits outlined in the Title 20 proposal under GM were based roughly on the 1990 existing built environment within the GM zone in rural areas. Staff proposes no changes here.
- *Setbacks from adjoining property.* PDS staff reviewed setbacks across all commercial and industrial districts after Planning Commission dialog on August 13, and included a consistent 50 foot setback within all rural commercial and industrial districts in the August 20 draft of the Title 20 amendments. Fifty feet is the existing setback requirement for the GM district. Staff also included ‘Agriculture’ in the list of zoning districts that triggered the setback requirements. Staff proposes no changes here.

20.69 Rural Industrial – Manufacturing (RIM) District

- *Uses (Belcher/Swanson for T&D 9/8/09).* Staff proposes the following changes to the RIM district:

Change 20.69 under permitted uses as indicated:

.052 Uses related to forestry including, but not limited to:

- (1) Fabrication, maintenance, repair, service and accessory sales of forestry related items, within the limitations of 20.69.108 and elsewhere as outlined in this chapter.
- (2) Forest industry storage and maintenance facility.
- (3) Forestry management services and forest industry support services.
- (4) Log scaling station.
- (5) Manufacturing wood products and containers.
- (6) Operation of sawmills, chippers, shake and shingle mills, scaling stations, log dumps, sorting and storage areas; forest industry equipment maintenance, ~~building material~~ and storage yards, and forest industry residue dumps and other uses involved in the harvesting and primary processing of timber; provided:
  - (a) The intent of processing is initial reduction in bulk and/or to facilitate transport to secondary processing centers; and
  - (b) All uses within 1,000 feet of a park, recreation area or zone district other than Rural, Agriculture or Industrial shall be temporary and of less than 12 months’ duration.

~~(7) Prefabricated wood building and components.~~

~~(8) Wood waste recycling.~~

.054 Construction contractors’ business offices and storage and equipment yards, including the assembly and manufacturing of prefabricated wood building and components.

~~One one-story detached accessory storage building per lot; provided, that the floor area shall not exceed the exempt criteria stated in the adopted edition of the International Building Code, and shall only be used for personal storage and not for habitation or business; and provided further, that the storage building shall contain no indoor plumbing but may be served with electrical power for lighting.~~

.075 Wholesale trade or storage of durable and nondurable goods; provided trade, storage or processing of sulphur shall be prohibited.

Change 20.69 under accessory uses as indicated:

.108 Retail ~~and wholesale~~ trade of merchandise manufactured, assembled or stored on site within the definition of accessory uses as defined in Chapter 20.97; provided retail facilities do not exceed fifteen percent of the total floor area of all buildings located on site.

Delete section 20.69.134 under administrative approval uses:

“Outdoor storage of processed and unprocessed natural materials in quantities greater than 500 cubic yards that do not have a potential health hazard.”

- *Building Size (Brownlie/Evans/WolfLee for TC Trans 9/8/09, 8/20/09, 7/30/09).* Size limits outlined in the Title 20 proposal under RIM were based roughly on the 1990 existing built environment within the LII zone in rural areas. For example, the Cascade Business Center had (and still has) a building of approximately 10,600 square feet. Staff proposes no changes here.
- *Setbacks from adjoining property.* PDS staff reviewed setbacks across all commercial and industrial districts after Planning Commission dialog on August 13, and included a consistent 50 foot setback within all rural commercial and industrial districts in the August 20 draft of the Title 20 amendments. Fifty feet is the existing setback requirement for the LII district. Staff also included ‘Agriculture’ in the list of zoning districts that triggered the setback requirements. Staff proposes no changes here.

## 20.97 Definitions

- *Outdoor recreation facilities (Trillium 9/8/09 testimony).* Staff proposes changes to the definition as indicated:

### **20.97.282 Outdoor recreation facilities.**

“Outdoor recreation facilities” means land which is used for outdoor recreational activities ~~by the general public or whose membership is not restricted to persons residing within a specific area.~~ Such facilities shall include, but are not necessarily be limited to, tennis and/or racquetball and basketball courts, ~~;~~ soccer, baseball and football fields; basketball, climbing walls, ~~;~~ baseball batting cages, ~~;~~ golf courses or driving ranges; and swimming pools.

Attached are proposed LAMIRD and zoning boundary maps reflecting changes recommended on September 10, and showing parcels affected by the public requests discussed in this memorandum. The written comments are available online at <http://www.co.whatcom.wa.us/pds/plan/long/projects/lamird/updateprocess.jsp>. If you have questions regarding these materials, please call Samya Lutz at ext. 51072 or Gary Davis at ext. 50246.

Attachments:

Proposed LAMIRD and Zoning Boundary Maps: *Acme, Axton & Guide Meridian, Birch Bay-Lynden & I-5, Glacier, Hinotes Corner, Laurel, Point Roberts, Smith & Guide Meridian, Van Wyck, Wisser Lake*