



M E M O R A N D U M

TO: Whatcom County Planning Commission

THROUGH: Mark Personius, AICP, Long Range Planning Manager

FROM: Gary Davis, AICP, Senior Planner

DATE: March 6, 2013

SUBJECT: Rural Element

In a work session at the March 14 Planning Commission meeting, Planning and Development Services (PDS) staff will present draft amendments to the Comprehensive Plan and County Code that respond to the January 4, 2013 Growth Management Hearings Board order. The purpose of the presentation will be to familiarize the Commission and the public with the proposed amendments to help prepare for discussion at future meetings.

The Board found the County out of compliance or invalid on eight issues. Whatcom County has filed appeals on two of those issues (Issues 3 and 5 on the attached Summary of Issues table). The draft amendments will address the remaining six. The draft amendments and accompanying staff report will be posted to the County web site in the coming week, prior to the work session. PDS will notify the Planning Commission and public when the drafts are available online.

The Planning Commission is scheduled to hold a public hearing on the amendments on March 28 in the County Council Chambers. An executive session is planned prior to the public hearing to advise the Commission on potential takings issues, per RCW 36.70A.370, as well as the ongoing litigation.

On March 28, following the public hearing, the Planning Commission may hold a work session to deliberate on the draft amendments. PDS has scheduled a work session for this issue for the April 11 Planning Commission as well. If you have questions on this matter, please contact Gary Davis at 676-6907.

Attachment:
Summary of Issues

Summary of Issues in 1/4/13 Compliance Order

January 10, 2013

Bold print indicates invalidity per p. 90-92

Issus on which action is required

<i>Issue</i>	<i>C.O. Pages</i>	<i>GMA Section</i>	<i>Notes</i>
1 Variety of rural densities -- rural element lacks measures to protect lower rural densities (10A)	29-32	<u>RCW 36.70A.070(5)(b)</u>	
2 Lot clustering -- cluster provisions "fail to protect rural character by vesting too much discretion in the building officials without enforceable criteria"	33-39	<u>RCW 36.70A.070(5)(c)(iii)</u>	
3 Lake Whatcom -- current regulations do not protect Lake Whatcom water resources	48-54	<u>RCW 36.70A.070(5)(c)(iv)</u>	Board reserved decision on County's measures to protect water resources beyond the Lake Whatcom measures, to allow the question to be thoroughly briefed and argued in Case No. 12-2-0013
4 Rural Neighborhood boundaries -- 3 Rural Neighborhood boundaries include large lots and do not conform to small lot development patterns of 2011	56-61	<u>RCW 36.70A.070(5)(c)(iii)</u>	The Fort Bellingham/Marietta, North Bellingham, and Welcome Rural Neighborhood boundaries are subject to invalidity
5 LAMIRD development regulations -- dev. regs do not conform with GMA's "size, scale, use, intensity" and "small-scale" requirements for development in LAMIRDs	61-74	<u>RCW 36.70A.070(5)(d)(i-iii)</u>	The 1990 use/size table in WCC 20.80.100(1) is valid and remains in effect; The exemptions from that table in WCC 20.80.100(2), (3), and (4), and portions of other chapters that refer to those exemptions, are subject to invalidity
6 Smith/Guide Meridian LAMIRD boundary -- two parcels do not comply with GMA LAMIRD boundary requirements	75-76	<u>RCW 36.70A.070(5)(d)(iv)</u>	
7 Birch Bay-Lynden/Valley View LAMIRD -- one parcel does not comply with GMA LAMIRD boundary requirements	76-78	<u>RCW 36.70A.070(5)(d)(iv)</u>	
8 Water lines -- transmission lines are permitted outright in rural areas with no exlcusion of new service connections	78-85	<u>RCW 36.70A.110(4)</u>	

Issues on which the County prevailed

Issue	C.O. Pages	GMA Section	Notes
9 Population allocation -- CP policy 2DD-1 does not create an inconsistency that violates GMA and monitoring is a measure to contain and control rural development	22-29	<u>RCW 36.70A.070(5)(c)(i) and (iii)</u>	
10 Visual compatibility -- measures are contained in CP Policy 2DD-2, and in landscaping and lot coverage requirements	39-42	<u>RCW 36.70A.070(5)(c)(ii)</u>	
11 Chuckanut Wildlife Corridor -- County has adopted measures to protect the corridor by downzoning	42-47	<u>RCW 36.70A.070(5)(c)(iv)</u>	
12 Rural Neighborhood designations adjacent to UGAs - petitioners failed to carry burden of proof that RN and the RRDO overlay are noncompliant	56-61	<u>RCW 36.70A.070(5)(c)(iii)</u>	Only the <i>boundaries</i> of three rural neighborhoods is out of compliance, see Issue 4 above
13 1990 uses and sizes in LAMIRDs -- County properly addresses 1990 uses and sizes in WCC 20.80.100(1) table	68-71	<u>RCW 36.70A.070(5)(d)(i-iii)</u>	Only the <i>exemptions</i> to the table are out of compliance, see Issue 5 above
14 Type II LAMIRD 20 acre limit -- petitioners failed to carry burden of proof that 20 acre maximum lot size violates GMA	71-74	<u>RCW 36.70A.070(5)(d)(ii)</u>	However, County is out of compliance with respect to "small-scale" standards, see Issue 5 above
15 Structure of cross-referencing and rural character narrative in the CP -- petitioner have not met their burden of demonstrating why cross-referencing development regulations as protective measures, or the wording of the rural character narrative violates GMA	14-21	<u>RCW 36.70A.070(5)(c)(i) - (iv)</u>	Cross-referencing between CP policies and DR provisions will require the County to cross reference both if it makes a change to either in the future