

## **ADDENDUM TO MARCH 11, 2013 STAFF REPORT**

The staff report dated March 11, 2013 presented PDS analysis of the eight compliance issues from the January 4, 2013 Growth Management Hearings Board Order.<sup>1</sup> Issue 2 concerned lot clustering standards in WCC chapters 20.32, 20.35, and 20.36. The County had referenced the clustering standards in Comprehensive Policy 2DD-2 as a measure to protect rural character. The Board found the standards did not protect rural character because they did not adequately protect reserve areas and did not provide clear, enforceable standards.

PDS staff drafted revisions to the clustering provisions to address the problems cited by the Board. During Planning Commission deliberations, the Planning Commission added a phrase to the then-existing Rural (R) zone clustering standards in WCC 20.36.310(6) that exempts parcels larger than 20 acres from those standards -- a maximum 16 lots in a cluster and minimum 500 foot spacing between clusters. This provision was not in the draft amendments proposed by staff, but was suggested in an April 8, 2013 written comment by Zender-Thurston, representing Caitac USA, owner of a large property immediately north of the Bellingham Urban Growth Area. On June 18, 2013 the County Council adopted Ordinance 2013-028, which enacted provisions that addressed the Board's concerns, and also included the Planning Commission's added wording in WCC 20.36.310(6).

The Growth Management Hearings Board's November 21, 2013 Compliance order found Ordinance 2013-028 in compliance with GMA regarding the two main problems they had cited, but was silent on the addition to WCC 20.36.310(6). Petitioner Futurewise requested a reconsideration in December 2013 and the Board issued a revised order on January 23, 2014, finding the added exemption in WCC 20.36.310(6) to be noncompliant with RCW 36.70A.030(15) and 36.70A.070(5)(c), as it violates rural patterns of land use and development and does not assure visual compatibility with the surrounding rural area or reduce conversion of undeveloped land. The Board set a compliance date of March 24, 2014.

PDS has drafted a revision to WCC 20.36.301(6) per the Board's January 23 order (attached). The revision restores that code section to its original form prior to Ordinance 2013-028. Staff has also prepared a set of draft findings and conclusions, below.

Attachment:

Proposed Zoning Code amendment, January 31, 2014 draft

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<sup>1</sup> Case No. 11-2-0010c Compliance Order, January 4, 2013.

**PROPOSED FINDINGS OF FACT AND REASONS FOR ACTION**

- 1) On June 18, 2013 the County Council adopted Ordinance 2013-028 in response to the Growth Management Hearings Board's January 4, 2013 Compliance Order. This ordinance included an amendment to WCC 20.36.310(6) exempting parcels larger than 20 acres from standards requiring a maximum 16 lots in a cluster and minimum 500 foot spacing between clusters.
- 2) The Growth Management Hearings Board's November 21, 2013 Compliance order found Ordinance 2013-028 in compliance with GMA regarding the lot clustering issue, though it was silent on the amendment to WCC 20.36.310(6).
- 3) Petitioner Futurewise requested a reconsideration in December 2013 and the Board issued a revised order on January 23, 2014, finding the added exemption in WCC 20.36.310(6) to be noncompliant with RCW 36.70A.030(15) and 36.70A.070(5)(c).
- 4) Whatcom County proposes amendments to its Zoning Code in response to the Washington State Growth Management Hearings Board's January 23, 2014 Compliance Order (GMHB No. 11-2-0010c).
- 5) The proposed amendment to the Zoning Code restores WCC 20.36.310(6) to its original wording prior to the adoption of Ordinance #2013-028.
- 6) An addendum to the May 1, 2009 determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on April 12, 2013.
- 7) The proposed amendments were posted on the County website on February, 2014.
- 8) Notice that the proposal had been posted on the County website was sent to citizens, citizens groups, cities, service providers, media and other groups on the County's e-mail list on February 11, 2014.
- 9) Notice of the subject amendment was submitted to the Washington State Department of Commerce on February 5, 2014.
- 10) Notice of the Planning Commission hearings for the subject amendment was published in the Bellingham Herald on February 14 2014.
- 11) Notice of the Planning Commission hearing for the subject amendment was posted on the County's website on February 11, 2014.
- 12) The Whatcom County Planning Commission held a public hearing on February

27, 2014. Since publication of the first draft amendments on February 11, 2014, the most current draft amendments have been continuously posted on the County's web site, as have all documents presented to the Planning Commission and all written public comments.

**PROPOSED CONCLUSIONS**

- 1) The proposed amendments are consistent with the goals and requirements of the Washington Growth Management Act (GMA), are in the public interest, and are consistent with the Comprehensive Plan.

**DRAFT WCC Amendment**

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**WCC TITLE 20 ZONING.**

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**20.36 Rural (R) District**

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**20.36.310 Design standards.**

The creation of new building lots, pursuant to this section, shall be governed by the following recommended design standards:

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(6) In order to preserve rural character, no more than 16 residential lots shall be permitted in one cluster and there shall be at least 500 feet of separation between any new clusters, ~~except when the cluster subdivision is located on a parcel or contiguous parcels in the same ownership, greater than 20 acres.~~

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