Rural Element Update

May 21, 2013
Today’s presentation

- Issues
  - Planning Commission Recommendation
  - Staff Recommendations

- Schedule
Issue 1 – Variety of Rural Densities

- **Compliance Order:**
  
  The Board noted that only 21% of the rural area is zoned R10A, and was concerned that this number could be reduced further because the County did not restrict rezones from R10A to R5A (and therefore could not assure the “variety of rural densities” required by GMA).
Issue 1 – Variety of Rural Densities

Compliance Order:

- “The rural element...fails to provide a variety of rural densities in that it lacks measures to protect rural character or contain rural development at any lesser densities than 1du/5ac.” (p. 32)

- “Ordinance 2012-013 still contains no criteria differentiating R5 and R10 that would assure long-term continuance of any rural lots larger than R5. None of the measures in 2DD-2 indicate which areas should be designated Residential Rural-5 or Rural-5A or Residential Rural-10 or Rural-10A; in fact, WCC 20.32.253 states that ‘the RR-5A and RR-10A Districts are allowed throughout the rural areas.’ There are no measures to prevent the subdivision of all larger lots into five acre lots.” (p. 31).
Whatcom County Rural Lands
2012 Acreage by Zoning District

EI
185
0.2%

R2A
607
0.5%

R5A*
658
0.5%

RR2A*
1,352
1.1%

RR5A
3,344
2.8%

RR5A*
697
0.6%

R10A
26,542
21.8%

R5A
80,814
66.5%

Other Zones (LAMIRDs)
7,361
6.1%

Other Zones (LAMIRDs) acreage includes R, RR, ROS, and Federal Lands proposed for inclusion within LAMIRD boundaries.
Issue 1 – Variety of Rural Densities

Policy 2GG-3 criteria

- Uses and densities within the Rural designation should reflect established rural character. Rezones within the Rural designation should be consistent with the established rural character and densities. Land in the R10A district may be rezoned to a rural zone that allows a higher density only if:
  - A. Rezoning area abuts zoning of higher density or intensity (parcels are abutting even if there is a public or private road between them), or
  - B. All the following items are satisfied:
    - Residential density (the average size of parcels that contained a residence as of January 1, 2013) within 500 feet of the area to be rezoned is less than 7.5 acres,
    - The proposed rezoning area is not in a designated urban growth area reserve.
Issue 1 – Variety of Rural Densities

Estimated Eligible R10A parcels in Rural lands:

- **Current:** 836 parcels >10 ac (19,377 ac)
- **Staff Recommendation:** 36 parcels (943 ac)
- **Commission Recommendation:** 303 parcels (7,718 ac)

Estimated in May 16, 2013 R10A Potential Rezone Study
Issue 1 – Variety of Rural Densities

Percentage of R10A in Rural lands:

- **Current:** 21.8%
- **Staff Recommendation:** 21.1% Minimum
- **Planning Commission Recommendation:** 15.5% Minimum

Estimated in May 16, 2013 R10A Potential Rezone Study
Issue 2 – Lot Clustering

Compliance Order:

- “The County’s reliance on clustering as a measure to protect rural character is misplaced because (a) the clustering provisions lack enforceable criteria and (b) the resulting reserve tracts are not permanently protected.” (p. 39)

- The Board cited the existence of “aspirational” language such as “should be” and “where practical” in the cluster design standards for the Rural district and stated the County’s clustering provisions “fail to protect rural character by vesting too much discretion in the building officials without enforceable criteria.” (p. 37)
Issue 2 – Lot Clustering

Revisions to Lot Clustering Provisions:

- Apply the required “Reserve Area” percentage to a reserve area easement on the plat, not to the “reserve tract”

- Reserve area percentages reduced slightly to account for change in ability to develop within the reserve area.

- Remove “aspirational” wording
Issue 2 – Lot Clustering

Current R, RR clustering requirement;

“Where practical, the majority of building sites should be arranged in a cluster or concentrated pattern to be compatible with physical site features, allow for the efficient conversion of the “reserve tract” to other uses in the future…”
Issue 2 – Lot Clustering

- **Proposed requirement:**
  - “Building lots shall be designed and located to be compatible with, and avoid disturbance of, critical areas and known archaeological sites, as well as physical constraints of the site.”
  - “A permanent protective mechanism shall be legally established to ensure that the required reserve tract is preserved and protected in a manner sufficient to restrict the reserve tract to either open space or resource use, in a form that is acceptable to both the applicant and the county and filed with the county auditor’s office. This protective mechanism shall be in perpetuity with no expiration, but may permit further subdivision or development only after the tract is included in a designated Urban Growth Area.”
Issue 2 – Lot Clustering

20-acre R5A Cluster Subdivision (Current): 3 cluster lots, one reserve tract (residence permitted in reserve tract)

Minimum 75%
(15 ac)
Issue 2 – Lot Clustering

20-acre R5A Cluster Subdivision (Proposed): 3 cluster lots + reserve tract partially covered by reserve area easement

Minimum 65%
(13 ac)
Issue 2 – Lot Clustering

20-acre R5A Cluster Subdivision (APO only): 3 cluster lots + reserve tract = 4 lots (75% reserve area; reduction in land available for lots)

Minimum 75%
(15 ac)
Issue 2 – Lot Clustering

20-acre R5A Cluster Subdivision (Not proposed): 4 cluster lots + reserve tract = 5 lots (long plat required; reduction in land available for lots)

Minimum 75%
(15 ac)
Issue 2 – Lot Clustering

Wording clarifications from May 6 memorandum (p. 3, 4):

- Agricultural building description (reference to ag uses permitted in the zone)
- “Reserve Area” definition (uses)
- “Reserve Tract” definition (intention)
- Reserve area established by an easement rather than note on the plat
Issue 3 – Lake Whatcom

The County has filed an appeal of this Board ruling. The County continues to work toward adoption of new stormwater regulations in the Lake Whatcom watershed under PLN2012-00015.
Compliance Order:

- Found the designation to be in compliance with GMA, but found that three of the newly-designated Rural Neighborhoods -- Fort Bellingham/Marietta, North Bellingham, and Welcome -- have boundaries that include several larger parcels. The Board remanded the ordinance to the County to consider redrawing those boundaries “to be more consistent with the small-lot 2011 development pattern.” (p. 60)
Issue 4 – Rural Neighborhoods

- **Compliance Order:**
  - “Fort Bellingham/Marietta and, to a lesser extent, North Bellingham, contain a number of large undivided parcels...Including large undivided parcels in the RN designation violates the internal inconsistency requirement of [GMA] because the RN designation is defined by a 2011 small-lot development pattern.” (p. 60)

- Subject to invalidity (p. 91)
Issue 4 – Rural Neighborhoods

- **Fort Bellingham/Marietta:**
  - Staff recommendation: 22 large lots removed, 9 potential new lots
  - PC recommendation: 12 large lots removed, 45 potential new lots

- **North Bellingham:**
  - Staff recommendation: 11 large lots removed, 30 potential new lots
  - PC recommendation: 6 large lots removed, 42 potential new lots

Estimated in May 6, 2013 R10A Potential New Lots Study
The County has filed an appeal of the Board’s decision in this issue. PDS proposes no changes regarding LAMIRD development regulations, pending the outcome of this appeal.
Issue 6 – Smith & GM LAMIRD

- Compliance Order:
  - The Board found the “dog leg” of two RGC-zoned parcels on the north end of the Smith & Guide Meridian LAMIRD “does not create a boundary that is ‘clearly identified and contained,’ as required by statute, nor is it a logical boundary ‘delineated predominately by the built environment.’” (p. 76)
  - Subject to invalidity (p. 91)
Compliance Order:

The Board found “the existence of one small building in 1990 does not equate to a two-acre addition of ‘more intense rural development.’…The [logical outer boundary] adopted by the County does not create a boundary that is ‘clearly identified and contained,’ as required by statute, nor is it a logical boundary ‘delineated predominately by the built environment.’” (p. 78)

Subject to invalidity (p. 91)
Birch Bay-Lynden & Valley View

File #: PLN2012-00012
Proposed Comprehensive Plan Land Use Changes

- Existing Comprehensive Plan Boundary
- Proposed Rural Community (Type 1 UAM/RCD)
- Proposed CP Designation: RURAL COMMUNITY (not in parentheses)
- Existing CP Designation: (RURAL COMMUNITY)

0 100 200 300 400 500 600 700 800 900 1,000 1,100 Feet

February 21, 2019 legal
Issue 8 – Water Lines

- **Compliance Order:**
  - Found the amended code provision “fails to comply with RCW 36.70A.110(4) because ‘transmission lines’ are allowed outright through the rural area without ‘transmission’ being defined as excluding service connection…” (p. 85)
  - Also noted that a provision in the County’s Health Code (WCC 24.11.050.3) requires service connections to adjacent transmission lines. (p. 82)
Issue 8 – Water Lines

- 20.82.030(3)(b) permits extension of large water lines for rural uses but prohibits extension of water lines for urban uses, per GMA definitions of rural and urban governmental services.

- 24.11.050 Health Code - change reference from “transmission lines” to “water lines”
Issue 8 – Water Lines

- 20.82.030(3)(b) refers to new definition of “Water Transmission Lines” identical to WAC 246-290-010(267) definition, to clarify that there will be no service connections to a transmission line in a Rural or Rural Neighborhood designation.

- 20.97.452 Definition:

  “Water transmission lines” means pipes used to convey water from source, storage, or treatment facilities to points of distribution or distribution mains, and from source facilities to treatment or storage facilities. This also can include transmission mains connecting one section of distribution system to another section of distribution system as long as this transmission main is clearly defined on the plans and no service connections are allowed along the transmission main.”
Issue 8 – Water Lines

- Revise Health Code to replace “transmission lines” with “distribution lines” in provision that requires applicant to connect to a public water system (WCC 24.11.050.C.3)
Schedule

- March 14 – PC Work Session
- March 28 – PC Public Hearing, Work Session
- April 11, 25 – PC Work Session
- May 21 – County Council Public Hearing
- June 4, 18 – County Council Consideration
- July 3 – Compliance deadline
Information

- Information on Rural Element, including public comments and proposed changes:

- Send comments to
  - [pds@co.whatcom.wa.us](mailto:pds@co.whatcom.wa.us)
  - Planning and Development Services, 5280 Northwest Drive, Bellingham, WA 98226
  - 360-676-6907