

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