



Memorandum

March 28, 2024

To: The Honorable Satpal Sidhu, Whatcom County Executive
The Honorable Whatcom County Council

From: Lucas Clark, Planner I

Through: Steve Roberge, Assistant Director

RE: Proposed Amendment to WCC 20.40.150 (Agriculture District) to allow Propane Distribution in Agriculture as a Conditional Use

Purpose

During the March 19th, 2024 Planning and Development meeting, questions were raised regarding the definition of Lands of Long-Term Commercial Significance and Propane Distribution in Limited Areas of More Intensive Rural Developments (LAMIRD). This memo will provide a further explanation of Land of Long-Term Commercial Significance and clarify where propane distribution could be permitted on a case-by-case basis in LAMIRDs.

Lands of Long-Term Commercial Significance

The Whatcom County Comprehensive Plan defines Lands of Long-Term Commercial Significance as, *"Those lands designated as Agriculture in the comprehensive plan are designated as Agricultural Lands of Long-Term Commercial Significance as defined by GMA as agricultural lands that have the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of the land."* (This definition is the same as found in RCW 36.70A.030(23))

Comprehensive Plan Policy 8A-3, item three, provides guidance in determining long term commercial significance:

Policy 8A-3: The criteria for designating or de-designating lands under the Agriculture land use designation shall be considered on an areawide basis. When applying the following criteria, the process should result in designating an amount of agricultural resource lands sufficient to maintain and enhance the economic viability of the agricultural industry in the county over the long term, and to retain agricultural support businesses, such as processors, farm suppliers, and equipment maintenance and repair facilities. The criteria are as follows:

1. The land is not already characterized by urban growth. In determining this factor, the County should consider WAC 365-196-310 and RCW 36.70A.030(19).
2. The land is used or capable of being used for agricultural production. In making this determination, the County shall use the land-capability classification system of the U.S. Department of Agriculture Natural Resources Conservation Service. These eight classes are incorporated into map units and are based on the growing capacity, productivity, and soil composition of the land.
3. The land has long term commercial significance for agriculture. In determining this factor, consider the following nonexclusive criteria:
 - a. The majority of the area contains Prime Farmland Soils as determined by the Natural Resource Conservation Service (NRCS).
 - b. The area may contain 100-year floodplains as delineated by the Federal Emergency Management Agency (FEMA).
 - c. Land use settlement patterns, the intensity of nearby uses, and the history of approved land development permits are generally compatible with agricultural practices.
 - d. A majority of the area is composed of agricultural operations that were historically in agriculture prior to 1985.
 - e. The predominate parcel size in the area is large enough to adequately maintain agricultural operations.
 - f. The availability of public services.
 - g. The availability of public facilities such as roads used to transport agricultural products.
 - h. Special purpose districts that are oriented to enhancing agricultural operations such as drainage improvement, watershed improvement, and flood control exist.
 - i. The area has a pattern of landowner capital investment in agricultural operations improvements including irrigation, drainage, manure storage, the presence of barns and support buildings, enhanced livestock feeding techniques, agricultural worker housing, etc.
 - j. The area contains a predominance of parcels that have current use tax assessment derived from the Open Space Taxation Act.
 - k. The area's proximity to urban growth areas.
 - l. The area's proximity to agricultural markets.
 - m. Land value under alternative uses.

LAMIRDs

Whatcom County has two types of LAMIRDs as allowed under the GMA (RCW 36.70A.070(5)(d)(i) through (iii)) that are designated on the Comprehensive Plan Land Use Map:

Type I LAMIRDs (Rural Communities)— “Rural development consisting of the infill, development, or redevelopment of existing commercial, industrial, residential, or mixed-use areas...” Existing development is defined as that which existed on July 1, 1990.

Type III LAMIRDs (Rural Business)—“The intensification of development on lots containing isolated nonresidential uses or new development of isolated cottage industries and isolated small-scale businesses that are not principally designed to serve the existing and projected rural population and nonresidential uses, but do provide job opportunities for rural residents...”

Portions of both of these types of LAMIRDs may (and do) include parcels zoned Rural Industrial and Manufacturing (RIM). However, the Type I Rural Communities LAMIRD allowed uses are restricted to the same general category or type of uses (and size and scale of buildings) that existed within that LAMIRD on July 1, 1990. Whereas, Type III Rural Business LAMIRD allowed non-residential uses are not subject to those same size, scale and use restrictions. See WCC 20.69.050.

So, in the case of allowing “propane retail and distribution facilities” as permitted uses in the RIM zone, they would be outright permitted within Type III Rural Business Comprehensive Plan Map designations but would only be allowed in Type I Rural Communities Comprehensive Plan Map designations if the same general category or type of use (but not necessarily the same exact type of use), in this case “Manufacturing/Fabrication” uses, existed within that particular LAMIRD on July 1, 1990. Determining whether propane facilities would be allowed in any particular Rural Communities designation would therefore have to be evaluated on a case-by-case basis depending upon the LAMIRD geographic location and use, size and scale limitations identified in WCC 20.80.100 .

I hope this clarifies the proposed amendment.