

UDC UPDATE PROJECT
SPECIAL UDC PUBLIC FORUM

RE: THE PROPOSED RURAL CLUSTER SUBDIVISION ORDINANCE

AS DISCUSSED ON FEBRUARY 21, 2008 AT 6:00 P.M.

Responses were provided by:

Craig Ladiser, PDS Director (CL)
Tom Rowe, PDS Division Manager (TR)
David Killingstad, PDS Principal Planner (DK)
Elizabeth Anderson, PDS Senior Planner (EA)
Bob McEwen, PW Transportation Specialist (BM)

*Comments made by the public are bolded and staff responses are italicized.

What is the purpose of the changes made to front yard setbacks?

TR – The intent of the staggered front yard setbacks is to assure a more rural look.

Is there a process in place that allows the developer and the neighborhood to compromise on vegetation retention?

TR - Early consultation with developers is being encouraged. The proposed ordinance offers incentives and allows flexibility.

Where in the ordinance does it offer flexibility?

TR - There are 3 or 4 ways built into the proposed code language for flexibility. For instance, setbacks can be reduced based on how many standards are being met.

What is limitation on spacing between development projects?

DK – The proposed ordinance doesn't address limitations on spacing between clusters.

When is public water required?

TR – When a willing and able water purveyor is located within ¼ mile of the development. Sometimes water purveyors are not able to provide service because they do not have water rights.

The proposed ordinance would reduce the number of lots allowed in a cluster from 30 to 13. How did you arrive at the number 13?

TR - Thirteen is the threshold for water rights and exempt wells.

Can a 13-lot rural cluster subdivision be on exempt wells?

TR - Yes.

Can a series of 13-lot rural cluster subdivision developments be “piggybacked” and still all be on exempt wells?

TR - Yes, but only if public water is not available.

Where in the ordinance does it suggest that 50% tree canopy be retained? How much preservation is required?

DK – Unfortunately, the staff recommended ordinance left out requirements to retain 50 percent of the tree canopy. Staff will be suggesting an amendment to the Planning Commission to correct this oversight.

Can property owners cut down all the trees on their property to build their homes?

TR – Yes.

How is existing vegetation considered when meeting the restricted open space requirements?

TR - Buffers are not included in the 50 percent.

EA – Text in the proposed ordinance needs to be clarified to meet the intent of the 50 percent overall retention requirement.

<p>Why aren't bonus densities addressed in the proposed ordinance?</p> <p><i>CL – We have been to many meetings and heard many concerns regarding density. We have heard that there is too much density. We have been told that safe walking paths should be installed alongside rural roads and we have been told that safe walking paths alongside rural roads would reduce rural character. Snohomish County's Comprehensive Plan mandates that urban areas have to accommodate 85% of the population and rural areas have to accommodate 15% of the population allocation, yet the Growth Management Act (GMA) does not provide specific guidance for rural lands. In 1995, the County began talking about rural areas and ran into opposition for suggesting that 5-acre lots be converted into 10-acre lots. When we adopted the GMA Comprehensive Plan, people felt that downzones violated certain property rights. The 10-year update to the Comprehensive Plan describes rural areas and Council agrees that PDS should take a look at this now "outdated" description. Rural cluster subdivisions are one type of rural development. The public has to have a major role in answering questions about what rural character is, how many units should be allowed and how the rural areas should be planned. We are going to have more discussions with all of you, and take a recommendation to Council.</i></p>
<p>Is that task on the docket for this year?</p> <p><i>CL – We asked for it to be on Docket XIII.</i></p>
<p>What is the timeline for rules to take affect?</p> <p><i>CL – Any policy changes would take place around May 2009, with code and rule changes to follow. The County will be out in the rural areas talking with the community about this issue between now and then.</i></p>
<p>Are there any provisions for wildlife corridors in the ordinance?</p> <p><i>CL – Habitat corridors are protected and there are specific standards in Critical Area Regulations (CAR) for habitat protection.</i></p>
<p>Can we change the SEPA review process so that the public has a chance to comment on the project if they have certain issues with it?</p> <p><i>TR - Notice of an application is posted immediately and subject to a 30-day public comment period. Notification occurs by newspaper, posted signs, and U.S. mail. If the County decides to issue a threshold determination of environmental significance or non-significance (which is appealable) after that time, then we make the decision. There are two opportunities for the public to submit comments.</i></p>
<p>What is the definition of rural character?</p> <p><i>DK – Line 33 of the proposed ordinance uses the definition found in RCW 36.70A.030(15) which reads: "Rural character" refers to the patterns of land use and development established by a county in the rural element of its comprehensive plan: (a) In which open space, the natural landscape, and vegetation predominate over the built environment; (b) That foster traditional rural lifestyles, rural-based economies, and opportunities to both live and work in rural areas; (c) That provide visual landscapes that are traditionally found in rural areas and communities; (d) That are compatible with the use of the land by wildlife and for fish and wildlife habitat; (e) That reduce the inappropriate conversion of undeveloped land into sprawling, low-density development; (f) That generally do not require the extension of urban governmental services; and (g) That are consistent with the protection of natural surface water flows and groundwater and surface water recharge and discharge areas.</i></p>
<p>Is there a limit to the number of rural cluster subdivision developments in rural areas?</p> <p><i>DK – That is a topic for a separate forum/discussion.</i></p>
<p>How is traffic congestion resulting from rural cluster subdivisions addressed? What are the regulations for utilities such as Snohomish County Public Utility District No. 1 (PUD) to keep things looking rural?</p> <p><i>DK - The opportunity to look at what type of uses (rural commercial, industrial, utilities) should be allowed in rural areas will be addressed in a different forum.</i></p>
<p>Allowing rural cluster subdivisions to piggyback on one another impacts density, so why not address that right now?</p> <p><i>CL – PDS had a choice: tackle the most unpopular form of development or tackle the whole issue of rural development. It was decided to tackle Rural Cluster Subdivisions first rather than delay these development standards for up to a year.</i></p>
<p>Why not include a provision to eliminate piggybacking?</p> <p><i>CL – The County Council agreed that we needed to look at density at the Comprehensive Plan level.</i></p>
<p>What criteria did the county use when establishing the 8 foot minimum height for evergreens?</p> <p><i>DK – The 8 foot minimum height for evergreens is a current requirement/existing standard.</i></p>

<p>Requirements for existing buffers create hazardous tree conditions. The best way to address safety is to clear cut and then plant species and sizes that have a better chance of surviving.</p> <p><i>DK – We are looking at tree retention in the Urban Residential Design Standards (URDS) subproject.</i></p>
<p>Buffers are important but should not be installed hastily.</p> <p><i>DK – Survivability is an important concern.</i></p>
<p>How does the proposed ordinance address Affordable Housing?</p> <p><i>DK – Affordable Housing is not addressed in the proposed ordinance, but is part of a major county-wide initiative.</i></p> <p><i>CL – We have to vet important issues such as affordable housing in policy discussions together.</i></p>
<p>Does the proposed ordinance consider water availability comprehensively or is consideration limited to ¼ mile around rural cluster developments?</p> <p><i>TR – PDS is trying to address this issue with code language that requires applicants to hook up to public water if it is available within ¼ mile.</i></p>
<p>If the Washington State Department of Ecology (DOE) denies an application for a water right, can the developer continue?</p> <p><i>TR – No.</i></p>
<p>Can a person with, for example, 80 acres subdivide it and put in a series of 13 lot rural cluster subdivisions? Will those types of new developments impact our well supply?</p> <p><i>TR – Yes, property owners can subdivide 80 acre parcels into smaller lots. The proposed code language requires public water be supplied to rural cluster subdivisions exceeding 13 lots.</i></p> <p><i>If you want to subdivide your 80 acres, then you have to have the smaller lots established before you can apply for water.</i></p>
<p>How many SEPA determinations have not resulted in a Determination of Nonsignificance (DNS)?</p> <p><i>TR - There are a lot of projects that will have a significant impact and they are either denied or they modify their project.</i></p>
<p>I went through 4 years of applications on open record hearings and never saw an application that was issued a Determination of Significance (DS).</p> <p><i>TR - Contact me and I will tell you about three of which I'm aware.</i></p>
<p>The proposed ordinance provides flexibility but does not mandate that developers use creative ways to decrease runoff or address sewage/aquifer issues. Is there a list of other departments or agencies that I could contact who will address all of these issues?</p> <p><i>TR – You can call the planner and they will tell you what agencies to call. Agency coordination is going to be different depending on the type of project.</i></p>
<p>Is there a tradeoff for providing affordable housing units?</p> <p><i>TR - By protecting the environment, Critical Area Regulations (CAR) make development more expensive, which deviates from making housing affordable.</i></p> <p><i>CL – Density bonuses in 1995 actually served as an incentive to provide for affordable housing. We will be evaluating these types of density issues as we go through the entire rural element. We don't need them for CAR anymore. We want to address the issue of density holistically rather than look at it solely in the context of this one application. In some cases, increased regulations actually increase property values, which make affordable housing less feasible.</i></p> <p><i>DK – The market also plays a significant role in the feasibility of affordable housing.</i></p>
<p>Can an 80-acre parcel go through some type of standard subdivision process and then be allowed to build several rural cluster subdivisions on the resulting lots?</p> <p><i>DK - If the underlying zoning is R-5 – 100-acre lots would ideally yield 20, 5-acre lots. But if you're doing a rural cluster subdivision then you may be looking at calculating lot yield at 1 dwelling unit/2.3 acres, or 1 dwelling unit/5 acres.</i></p> <p><i>CL – A Kittitas County Supreme Court decision no longer makes this possible.</i></p>
<p>Is the provision that reduces lots from 30 to 13 a water or rural character issue?</p> <p><i>TR – Both.</i></p>
<p>What is rate of new rural cluster subdivision applications since CAR?</p> <p><i>TR – There have been 2 rural cluster subdivision applications since January 1, 2008, and 2 subdivision applications since October 1, 2007.</i></p>

<p>Do plan reviewers consider adjacent uses when approving rural cluster subdivisions? <i>TR - We look at it for roads, yes. The market is really what is controlling vacancies. Another changing dynamic is that applications can sit in our bins after they have gone through the review process. Applicants have up to 5 years to build on the property after approval.</i></p>
<p>Are developers rapidly submitting applications prior to new rules being adopted? <i>TR – There have been 3 applications since October. The proposed ordinance would apply to applications that vest if and after this code is adopted. DK – The new CAR regulations took effect on October 1, 2007, which explains the rush in submittals prior to that date. Applicants wanted to vest under the old CAR.</i></p>
<p>How does this ordinance address global warming? <i>DK - There is encouragement throughout the entire proposed ordinance to use Low Impact Development (LID) techniques, such as water infiltration, reduced pavement with the new Engineering Development and Design Standards (EDDS), as well as provisions for retaining native vegetation. TR – Requiring fewer units in a cluster.</i></p>
<p>What about the fact that rural clusters themselves increase driving distances into the rural area? <i>DK – That goes into the broader question of how PDS will evaluate rural uses as staff examines the rural element of the Comprehensive Plan.</i></p>
<p>Can diagrams or other visual aids be used at the County Council hearing to show the general public how rural cluster subdivisions would look different under the proposed code language? <i>TR – We intend to have diagrams available when this goes to the County Council.</i></p>
<p>Item 2(e) on page 25 of the proposed ordinance states: “When the location of any structures on a lot are constrained by an open space easement with a requirement to plant and maintain a sight obscuring landscape buffer on the lot between the road and any structures on the lot, the required setback may be reduced by up to 40 percent.” I thought that we were getting rid of the sight obscuring buffer. Are we just waiving that requirement? <i>DK – A landscaping buffer is still required. This code provision provides the director with flexibility to deal with unusual site conditions.</i></p>
<p>Are we required to use all the criteria together then? Do all of them have to take place? <i>DK- The idea is that they all come into play in review. EA – It is a mix of the criteria and the setback modification itself. This provision belongs in a section by itself.</i></p>
<p>I had hoped that you would explain the proposed code language section by section. <i>We have provided a hard copy of the proposed ordinance on the back table and it is also accessible via the Unified Development Code (UDC) website.</i></p>
<p>The Growth Management Act established urban growth and rural areas. Rural areas are allocated 15 percent of the population and urban growth areas are allocated 85 percent. The Buildable Lands Report (BLR) says we are beyond the targets originally scheduled in both the rural and urban growth areas. What authority does the County have to limit development? <i>CL- Yes, we can control development and densities in rural areas. In 2005, when we updated the Comprehensive Plan, exceeding growth targets in the rural area wasn’t an issue. Now, rural cluster subdivisions have everyone’s attention. The Buildable Lands Report (BLR) monitors developments in rural areas and resource lands. It allows us to consider whether this is the right development pattern and question what will happen if development patterns continue.</i></p>
<p>How do citizens ensure they are part of the public process? <i>DK - Your emails have been transferred to staff working on that process. We have created lists from all those who signed in at the public forums and stakeholder meetings. Another great way to ensure that you are involved is to sign up for e-mail updates on the UDC Update Project website.</i></p>
<p>The Buildable Lands Report shows that the County expects to see an increase in rural cluster subdivisions. Who made the decision not to deal with the bonus density at this forum? <i>CL – Planning and Development Services Department (PDS) made the decision to look at density comprehensively and talked to the County Council about it. Council agreed that density should be looked at comprehensively. Now, there is a new County Council that also agrees to address density as a Comprehensive Plan issue.</i></p>

<p>What is the legal reason to change lots allowed within a cluster from 30 to 13? Why is it not a property rights issue, yet the bonus density is?</p> <p><i>CL – The reduction from 30 lots to 13 was mainly driven by water controls. 13 lots and less are allowed to have exempt wells. The response from rural citizens has been that rural cluster subdivisions are too large, so we decided to look at that in terms of rural character and how we decided to address this lot reduction issue.</i></p> <p><i>TR - If a water purveyor wrote a letter of availability for 50 units, then a developer could apply for a 13-lot rural cluster subdivision, then 100 feet away, apply for another 13-lot rural cluster subdivision, then 100 feet away, apply for another 13-lot rural cluster subdivision. If you have four parcels, they can be combined.</i></p>
<p>Can walkways within rural clusters or equestrian areas be gravel instead of permeable pavement or asphalt? Can the deviation process be a little easier?</p> <p><i>BM – If walkways are within the public right-of-way, the Americans with Disabilities Act (ADA) requirements eliminates the possibility of using gravel walkways. While we would consider alternatives, there are some requirements we cannot grant deviations for.</i></p>
<p>What about with private roads in private easements?</p> <p><i>BM - We need to research a bit more the requirements for a walkway located in a private easement along either a public or private road.</i></p> <p><i>CL – That’s the intent of collaboration, so that we can look at issues like this.</i></p>
<p>Landscaping issues will be looked at on Tuesday, February 26, 2008, at the Planning Commission public hearing. The Planning Commission will make a recommendation on Tuesday.</p> <p><i>CL – PDS generates a starting point where we try to balance polarized views. The Planning Commission makes a recommendation, modifies it and then it goes up to Council where the final decision is made.</i></p>
<p>What tools do we have to limit growth in the rural areas?</p> <p><i>CL – The County Council could put a moratorium on development in the rural areas. PDS has no authority there.</i></p>
<p>When we talk about 15 percent population allocation in rural areas, is that all rural areas clumped together?</p> <p><i>DK – Yes, the rural area is considered one, large geographic area.</i></p>
<p>Is the SEPA process the only method to determine whether a project is environmentally compatible?</p> <p><i>CL – The Low Impact Development (LID) techniques also determine environmental compatibility. SEPA evaluation analyzes environmental impacts. Water quality is also an element of SEPA review but the design of a project is a technical function. This proposed ordinance gives us more opportunity to deal with these types of issues.</i></p>
<p>Is clustering economical for the developer in terms of infrastructure costs?</p> <p><i>DK - There are economies of scale created through rural cluster subdivisions. Extending utilities is obviously more expensive.</i></p>
<p>How much incentive does a developer need to cluster?</p> <p><i>CL – We heard that there is a safety in the predictability offered by the rural cluster subdivision code in terms of the bonus density. Compared to traditional 5-acre development, it is more economical for the developer.</i></p>
<p>Why is it that rural roads are not considered arterials?</p> <p><i>BM - Every development receives a concurrency evaluation. However, per the county’s adopted traffic mitigation code (Chapter 30.66 SCC); concurrency is analyzed only on the county’s arterial road network, which is designated in the comprehensive plan. We monitor traffic volumes but we don’t keep real time data on when exactly a non-arterial road reaches an arterial road volume. Arterial roads are designated through a separate process, not simply based on traffic volume.</i></p>
<p>How can the public let the county know if a road has been mislabeled?</p> <p><i>BM - Send your comments and other information to the county traffic engineer. We take annual traffic counts on hundreds of roads. We would be happy to compare your information with ours.</i></p>
<p>Has there been any rural cluster subdivision application that has been denied because of concurrency issues?</p> <p><i>TR - I can’t think of any.</i></p>
<p>There should be some way to know if arterials are being impacted by rural cluster subdivisions or if rural roads will be in arrears at some point.</p> <p><i>BM – Public Works publishes a concurrency report annually that identifies both the arterials that do not meet concurrency standards and the 2nd tier arterials that are under monitoring and we want to keep our eye on.</i></p>

Do we have arterials going out to rural areas? Is the concurrency determination based on order of application?

TR – Concurrency is decided on a first come, first serve basis; that is, each development application is analyzed for concurrency based on the order of its completeness date.

What if they are complete on the same day?

TR - We haven't ever had that problem. We monitor road conditions such that if a particular road is becoming a concern for concurrency, we notify the appropriate people ahead of time and take steps to ensure project applications are handled appropriately.