



ISLAND COUNTY PLANNING & COMMUNITY DEVELOPMENT

Phillip Bakke, AICP
Director

PHONE: (360) 679-7339 ■ from Camano (360) 629-4522 ■ from S. Whidbey (360) 321-5111
FAX: (360) 679-7306 ■ P. O. Box 5000, Coupeville, WA 98239-5000
Internet Home Page: <http://www.islandcounty.net/planning/>

TRANSMITTAL & REPORT MEMORANDUM

DATE: February 14, 2005

TO: Island County Planning Commission

REGARDING CPA 062/05 –Repeal the portion of Appendix A of ICC 17.03 which limits building sizes in the Clinton and Freeland RAIDs.

FROM:

John Coleman, Assistant Planner

The following amendment is submitted by the Planning Department proposing to repeal the language in Appendix A of Chapter 17.03 of the Island County Code that restricts commercial building sizes in the Rural Center RAIDs of Clinton and Freeland. Repealing this language would allow the maximum building sizes in the Freeland and Clinton RAIDs to revert back to those spelled out in ICC 17.03.120. This report serves as the application and staff report and was submitted in accordance with Chapter 16.26 ICC.

FINDINGS OF FACT

PROPOSAL

Pursuant to Chapter 16.26 ICC, the Planning Department is requesting that the Island County Zoning Code be amended to increase the maximum size for commercial buildings in the RC Zones of Freeland and Clinton. The Department seeks to increase the maximum building size to 50,000 square feet of gross floor area. Currently, 27,000 square feet is the upper limit on commercial structures in the Freeland RC Zone, and 14,000 square feet is the limit in the Clinton RC Zone. Some essential services in these two major economic hubs are not being fully met as a result of these building limitations. The Planning Department seeks to increase the commercial building limitation to 50,000 square feet to help local enterprises provide the essential services needed in the Freeland and Clinton areas. This change shall meet the goals & policies of the Island County Comprehensive Plan and the Washington State Growth Management Act as demonstrated by this report.

ANALYSIS

Historical Analysis

On September 28, 1998, the Board of Island County Commissioners (BICC) approved the adoption of the Island County Comprehensive Plan, new Zoning Code (ICC 17.03) and new Zoning Maps. These amendments were enabled through Ordinance C-123-98 and addressed Rural Areas of Intense Development (RAIDs). The County's Comprehensive Plan and Zoning Code define RAIDs, and the Zoning Maps show where the specific boundaries of each RAID lays.

The designation of several RAIDs, including the Freeland and Clinton RAIDs, was appealed to the Growth Management Hearings Board (GMHB) by the Island County Citizens' Growth Management Coalition and the Whidbey Environmental Action Network (WEAN). The appeal, GMHB case number 98-2-0023c, was upheld and the Freeland and Clinton RAIDs were found to be in non-compliance with the GMA. In its Final Decision and Order (FDO), the GMHB agreed with the appellants that the Freeland and Clinton RAIDs (as defined in Ordinance C-123-98) showed evidence of non-municipal urban growth and therefore were not RAIDs, but more like of non-municipal urban growth areas (UGAs)(FDO p.55).

In Order 9 of the FDO, the GMHB stipulated that the county "[r]eassess the designations, densities and uses allowed in Freeland and Clinton RAIDs. Either: (a) do proper analysis, make provision for urban services and designate as non-municipal UGAs; or (b) restrict boundaries, uses and densities allowed." (FDO p.78).

On July 8, 1999, the County argued to the GMBH requesting that the RAID designations be allowed to remain the same until a UGA analysis was done to determine whether Freeland and/or Clinton were going to become non-municipal UGAs. This analysis was scheduled to be complete in December of 2000. The appellants countered with a plea that the County not be allowed to maintain the existing RAID boundaries in fear that the County may inadvertently allow unrestricted growth in the RAIDs for several more years until the analysis was complete. The County's request to maintain the F & C RAID boundaries until the UGA analysis was complete was denied and the GMHB gave the County until November 30, 1999 to "take interim action to preclude the development of a new pattern of low-density sprawl and the permitting of urban growth without provision of urban services while the remainder of the [NMUGA study] process is being completed." (Order on Motions for Reconsideration and Clarification, July 8, 1999).

In an effort to meet the requirements of the modified GMHB order, the County passed Ordinance C-199-99, which made several changes to the two RAIDs. In Clinton, buildings in the Rural Center (RC) Zone were restricted to 14,000 square feet or less; Base Density was restricted to three Dwelling Units per acre in the RR Zone; 4 DU/acre became the minimum density for all land divisions and residential development greater the 1 SFD and; all development would require County approval and development agreements. In Freeland all development in the Rural Center (RC) Zone was limited to

27,000 square feet. Seven other restrictions on uses and densities were placed on the Freeland RAID, two of which have since been rescinded. A comprehensive list of restrictions can be found in Ordinance C-119-99.

The County did not adjust the boundaries of either of the RAIDs, though. The Planning staff, Planning Commission and BICC had worked hard to define the boundaries of the two RAIDs and felt very strongly that the boundaries were appropriate. The County felt that the added restrictions set forth in Ordinance C-119-99 would be enough to bring the Freeland and Clinton RAIDs into compliance with the GMA, and the GMHB would approve these changes and not require the County to alter boundaries.

Pursuant to RCW 36.70A.330, the GMHB held a compliance hearing on March 9, 2000 to determine whether the County was in compliance regarding FDO No.9. On March 22, 2000, the GMHB issued Compliance Order RE: Freeland/Clinton, in which the County was required to alter the boundaries of both RAIDs, this time explicitly requiring that specific lands be removed from the RAIDs. These lands were the areas that WEAN and the Island County Citizens' Growth Management Coalition (Appellants) wanted to see removed from the RAIDs (GMHB documents 4985 and 4986).

The County proposed, and the BICC adopted Ordinance C-50-00, an amendment that adjusted the boundaries of the Freeland and Clinton RAIDs as per the orders of the GMHB, on June 5, 2000. On October 12, 2000, the GMHB approved the boundary changes to the Freeland and Clinton RAID boundaries.

Analysis of Proposal

When the County designated the original RAIDs (Ordinance C-123-98), four RAIDs included a Rural Center (RC) Zone: Freeland, Clinton, Ken's Corner and Bayview. According to ICC 17.03.120, "the RC Zone is applied to existing areas of intense non-residential and mixed-use development and encompass the logical outer boundary of the existing pattern of development." Buildings with as much as 50,000 square feet of gross floor area are conditionally allowed in the RC Zone. When the County placed a limitation on building sizes in Freeland and Clinton, this did not affect the fact that Bayview and Ken's Corner still have 50,000 square foot limits. Today, the maximum building sizes in Freeland and Clinton are smaller than the other two RC Zoned RAIDs, but is unclear if this is necessary. The County is now looking into whether it is possible to increase the maximum building size in the Freeland and Clinton RAIDs to 50,000 square feet to match the limits in the Bayview and Ken's Corner RAIDs.

In its FDO the GMHB never specifically required the County to restrict building sizes. The GMHB stipulated that the County reassess the designations, densities and uses allowed in the Freeland and Clinton RAIDs. Again, the County either had to: (a) perform a proper analysis, make provision for urban services and designate as NMUGAs; or (b) restrict boundaries, uses and densities allowed.

Though the GMHB may not have specifically required the County to restrict building sizes in the RAIDs, according to the GMA, new development must be consistent with the existing development of a RAID. RCW 36.70A.70(5)(d)(i)(C) says: “Any development or redevelopment in terms of building size, scale, use or intensity shall be consistent with the character of the existing area.” The County adapted the maximum building size limitations in Freeland (27,000 square feet) and Clinton (14,000 square feet) by identifying the largest existing building in each community, then setting the maximum size at that square-footage.

However, RCW 36.70A.070(5)(d)(i)(C) only requires that development shall be consistent with the character of the existing area “...in terms of building size, scale, use or intensity...” 50,000 square foot buildings are allowed in the other Rural Center RAIDs. This cap was never challenged, therefore it stands to reason that 50,000 square feet is an appropriate cap in a Rural Center RAID, including the Clinton and Freeland RAIDs. The County adopted C-119-99 to limit scale, use and intensity within RAIDs, to insure that future development is consistent with the character of the existing area, as RCW 36.70A.070(5)(d)(i)(C) requires.

CONCLUSIONS - Recommended Amendments:

The following is a discussion of how the proposal complies with the Comprehensive Plan. The Comprehensive Plan describes in full detail the Goals & Policies for Island County in compliance with the Washington State Growth Management Act. The following are the general goals & policies listed in the Island County Comprehensive Plan concerning the Rural Center Zone in Areas of More Intensive Rural Development (RAIDs) and Economic Development.

Areas of More Intensive Rural Development – Goals & Policies

The policies for the Rural Center, Rural Village, Light Manufacturing, Airport, Rural Service and Rural Residential land use designations are patterned for lands that are within defined areas of more intensive rural development characterized by predominantly the built environment.

Rural Center Designation (RC)

Goal:

Provide for the commercial, light manufacturing and higher density residential needs of the rural population wherein development exist in an attractive setting that is pedestrian oriented and served by public transit.

Policies:

- A. Rural Centers are designated mixed-use areas of more intensive rural development with a non-expandable logical outer boundary.
- B. All uses within the Rural Center designation must comply with rural design guidelines to assure compatibility with adjacent uses.
- C. The Rural Center designation shall provide for appropriately categorized permitted and conditional uses that include accessory uses, churches, schools, banking and financial institutions, communication towers, day care centers, eating and drinking establishments, entertainment uses, essential public facilities, fire stations, government services, group homes, health care services, light manufacturing, mixed-uses, multi-family, office uses, overnight lodging, research and development uses, retail sales and services, storage, major utilities, minor utilities, veterinary clinics, warehouses, and water tanks.
- D. The preferred type of development shall include clustering of uses, whose compact design fosters a communal atmosphere or orientation.
- E. It is intended that Rural Center highway shopping and service centers be developed as a unit, and in a compact manner, in order to prevent highway sprawl.
- F. Rural Center development should have appropriate landscaping, screening, signing and shielded lighting to provide for rural compatibility.
- G. Structures located within the Rural Center designation should share water and any applicable waste water services with adjacent structures in the same designation.
- H. Mixed uses, residential and commercial, especially with living accommodations above or over business activities are encouraged.
- I. Site design within the Rural Center designation will facilitate pedestrian access through the use of common areas, public transit, extensive landscaping, clustering, small parks and a compact design.
- J. Rural Center parcels must consolidate access to the highway with adjacent Rural Center parcels in order to minimize disruption of highway traffic.

Compatibility of Proposal with RAID Goals and Policies

The proposal is compatible with the County's Goal to provide for the commercial, light manufacturing and higher density residential needs of the rural population wherein development exist in an attractive setting that is pedestrian oriented and served by public transit. The proposal is also compatible with the County Policies concerning the RC Zone. The proposal will facilitate County Policies such as C and H of the RC Zone Policies.

Economic Development - Goals & Policies

Goal:

Encourage diverse economic development consistent with adopted comprehensive plans, especially opportunities for unemployed and disadvantaged residents and in areas experiencing insufficient economic growth, within the capacities of natural resources, public services and facilities. Strive to increase locally based non-military jobs from the current 50% of the County labor force to 60% of the labor force by the year 2020 (this would result in a 4,000 job increase above the 1996 level of locally based jobs). The focus of job development should be the retail, service and manufacturing sectors.

Policies:

- A. Encourage a diversity of economic activities within appropriate areas of Island County. These may include tourism, agriculture, professional, information processing, forestry, fisheries and commercial development. These economic activities should reflect the distinctive characters of the four County planning areas.
- B. Acknowledge as a basis for planning that the goals of preserving rural lands and enhancing economic vitality are complementary and not mutually exclusive. The County's rural character is a direct economic asset. It is a major factor behind the tourism industry and a major attraction for retirees and new businesses that want a higher quality of life for themselves and their employees.
- C. Overall economic development with regional orientation will be pursued in cooperation with local government and the private sector, targeting specific projects aimed at diversifying and stabilizing the economy.
- D. Retain existing businesses in the region and minimize obstacles to their expansion, where appropriate.
- E. Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development.
- F. The development of "living wage" employment opportunities is actively encouraged to reduce off-island commuting and provide career opportunities.
- G. Pursue the development of a diversified economy that attracts business activities that inject "new money" into the local economy (i.e. academic and research organizations, light industries, financial services, information processing, engineers, and home businesses) and includes appropriate service industries such as health care and professional services.

- H. Commercial developments must be designed and located to provide goods and services in a convenient, safe, attractive and environmentally responsible manner.
- I. Regional shopping centers must locate within municipal UGAs.
- J. Marinas and water-related commercial uses will develop in accordance with the SMP.
- K. Encourage and support public/farmers markets and small-scale farming operations.
- L. Encourage and support efforts to enhance the profitability of agriculture and forestry operations with value-added and specialty products and cooperative marketing programs.
- M. Encourage the development of appropriate support facilities and programs for the retirement industry.
- N. Encourage home occupations and home industries.
- O. Existing businesses that serve municipal UGAs will be encouraged to remain within these areas and expand as needed.
- P. Contain isolated non-residential uses.
- Q. Island County's land use decisions will support the retention and future use of NAS Whidbey, including OLF Coupeville and the Seaplane Base for use by military aviation. In the event that any military facilities are removed, downsized or closed, the County will promote the future use of these facilities for aviation-related activities. Should this not be economically viable, Island County will aggressively work to convert these capital assets into comparable economic benefits for the County and adjacent developed areas.
- R. Encourage agricultural and forestry land uses that help farmers and foresters stay on the land thus protecting the County's rural character, which in turn, attracts other economic activities.

Compatibility of Proposal with Economic Development Goals and Policies

The proposal is compatible with the County's Goal to Encourage diverse economic development consistent with adopted comprehensive plans, especially opportunities for unemployed and disadvantaged residents and in areas experiencing insufficient economic growth, within the capacities of natural resources, public services and facilities. Strive to increase locally based non-military jobs from the current 50% of the County labor force to 60% of the labor force by the year 2020 (this would result in a 4,000 job increase above the 1996 level of locally based jobs). The focus of job development should be the retail, service and manufacturing sectors. The proposal is also compatible with the

County Policies concerning the Economic Development. The proposal will specifically facilitate County Policies such as D, E, H, O and potentially M of the Economic Development Policies.

Decision:

Pursuant to Section 16.26.060.D.1-7 ICC the Planning Department is required to provide the Planning Commission a report that reviews the proposed amendment. This staff report satisfies this requirement. The proposed amendments are consistent with all elements of the Island County Comprehensive Plan, all Development Regulations, the County-Wide Planning Policies and the Growth Management Act.

The Department seeks affirmation from the Planning Commission to remove the language in Appendix A of ICC 17.03 that restricts maximum commercial building size to 27,000 square feet in the Freeland RAID and 14,000 square feet in Clinton RAID.

EXHIBIT A

Proposed amendments to the Island County Code

Chapter 17.03 ICC

APPENDIX A

Rural areas of more intensive development are zoned Rural Residential, Rural Center, Rural Village, Rural Industrial and Airport. Permitted and Conditional Uses are set forth in ICC 17.03.070, 120, 130, 145 and 150. The commonly used names that describe the area, neighborhood or community are listed in ICC 17.03.075 and ICC 17.03.155. Special conditions for these areas are set forth in this Appendix.

Clinton

1. For all property within the RR Zone, the Base Density shall not exceed three (3) Dwelling Units per acre.
2. For all Land Divisions and residential development greater than one (1) Single Family Residence per Existing fourteen thousand five hundred (14,500) square foot lot or smaller the lot layout, location of streets, other improvements and building sites shall not preclude future urban development. The application for development must be accompanied by a site plan showing ultimate development of the lot or parcel at a density of at least four (4) dwelling units per acre.
3. For all development in the Rural Center (RC) Zone ~~no building may exceed fourteen thousand (14,000) square feet of Gross Floor Area and~~ multifamily uses shall not exceed twelve (12) units per acre.
4. For all non-residential development and residential development greater than one (1) Single Family Residence per existing Lot within the Clinton RAID boundaries as a condition of County approval, a Development Agreement must be executed in a form prescribed by the County. The Development Agreement must include provisions wherein the applicant agrees to participate on a fair pro-rata share basis in costs of future public facilities that are approved through the LID or ULID process.

(Ord. C-123-98 [PLG-037-98], September 29, 1998, vol. 43, p. 6; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Interim Ord. C-119-99 [PLG-032-99], November 8, 1999, vol. 44, p. 110; amended by Ord. C-62-00 [PLG-015-00], July 17, 2000, vol. 44, p. 469; amended by Ord. C-104-00 [PLG-032-00], November 6, 2000, vol. 45, p. 64)

Coronet Bay

1. Overnight Lodging will be allowed as a Permitted Use.

(Ord. C-123-98 [PLG-037-98], September 29, 1998, vol. 43, p. 6; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)

Freeland

1. The special setback standards contained in ICC 17.03.060.D shall apply to all new uses approved within five hundred (500) feet of the Nichols Brothers Boatbuilding Facility.

2. Any new Non-Residential development within the RC Zone that is also within the sub-basin draining into Holmes Harbor shall contribute a pro-rata, “fair” share fee to complete the surface and stormwater improvements set forth in the Island County Stormwater and Flood Hazard and Management Plan.
3. For all other property within the RR Zone, the Base Density shall not exceed three (3) Dwelling Units per acre.
4. For all Land Division and residential development greater than one (1) Single Family Residence per existing fourteen thousand five-hundred (14,500) square foot Lot or smaller the lot layout, location of streets, other improvements and building sites shall not preclude future urban development. The application for development must be accompanied by a site plan showing ultimate development of the lot or parcel at a density of at least four (4) dwelling units per acre.
5. For all development in the Rural Center (RC) Zone ~~no building may exceed twenty-seven thousand (27,000) square feet of Gross Floor Area and~~ multifamily uses shall not exceed fourteen (14) units per acre.
6. For all non-residential development and residential development greater than one (1) Single Family Residence per existing Lot within the Freeland RAID boundaries as a condition of County approval, a Development Agreement must be executed in a form prescribed by the County. The Development Agreement must include provisions wherein the applicant agrees to participate on a fair pro-rata share basis in costs of future public facilities that are approved through the LID or ULID process.

(Ord. C-123-98 [PLG-037-98], September 29, 1998, vol. 43, p. 6; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Interim Ord. C-119-99 [PLG-032-99], November 8, 1999, vol. 44, p. 110; amended by Ord. C-62-00 [PLG 015-00], July 17, 2000, vol. 44, p. 469; amended by Ord. C-104-00 [PLG-032-00], November 6, 2000, vol. 45, p. 64)

Holmes Harbor

1. The maximum number of Dwelling Units permitted in Holmes Harbor shall not exceed the equivalent unit capacity established in the General Comprehensive Sewer Plan approved by Island County.
2. Any new development, at a Base Density of up to three (3) Dwelling Units/acre, including development on Existing Lots, shall mitigate or arrange for the mitigation of the development’s surface water impacts by contributing a pro rata, “fair” share fee to complete the improvements set forth in the Island County Comprehensive Stormwater and Flood Hazard Management Plan.
3. No further subdivision of the following Assessor’s Parcel numbers shall be allowed: R22903-501-4580, R22903-459-4580, R22903-435-4480, R22903-422-4480, R22903-412-4480, R22903-400-4480 and R22903-366-4480.

(Ord. C-123-98 [PLG-037-98], September 29, 1998, vol. 43, p. 6; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38; amended by Ord. C-62-00 [PLG-015-00], July 17, 2000, vol. 44, p. 469; amended by Ord. C-117-00 [PLG-033-00], December 11, 2000, vol. 45, p. 114)

Mutiny Sands

1. For those Parcels north of the Plat of Mutiny Sands, defined on the north by Bush Point Road and on the East by Mutiny Bay Road, a density of one (1) dwelling unit per three (3) acres shall be applicable.

(Ord. C-123-98 [PLG-037-98], September 29, 1998, vol. 43, p. 6; accepted by Res. C-133-98 [PLG-043-98], October 19, 1998, vol. 43, p. 38)