

determination of **invalidity** with respect to those provisions of Ordinance Nos. 2006-52s and 2006-53s.

4. Pierce County's action in amending the Upper Nisqually Community Plan and other community plans in Ordinance No. 2006-53s, Exhibit A, did not comply with RCW 36.70A.035. The Board remands Exhibit A of Ordinance No. 2006-53s to Pierce County to take legislative action to comply with the GMA.
5. Except as set forth in Paragraph 1, 2, and 4 above, the Halmo Petitioners **failed to carry their burden of proving** that the County's process in adopting Ordinance Nos. 2006-52s and 2006-53s did not comply with RCW 36.70A.035 and .140 or that the enactments failed to comply with RCW 36.70A.070(5) or were inconsistent with PCC 19A.20.050. Except as indicated, Halmo Legal Issues 7, 8, and 10 are **dismissed**.
6. The CROWD Petitioners have **failed to carry their burden** of proving that Pierce County's enactment of Ordinance Nos. 2006-52s and 2006-53s did not comply with RCW 36.70A.035 and .140, RCW 36.70A.011, RCW 36.70A.070(preamble) or .070(5), RCW 36.70A.200 or was inconsistent with the County's EPF Policies or other elements of the County's Comprehensive Plan. CROWD Legal Issues 12-20 and Halmo Legal Issue 11 are **dismissed**.

FDO, at 49.

The Final Decision and Order established February 1, 2008, as the deadline for Pierce County to take appropriate legislative action and stated:

- If the County takes the required legislative action prior to the February 1, 2008, deadline set forth in this Order, the County may file a motion with the Board requesting an adjustment to this compliance schedule.

FDO, at 50.

On December 17, 2007, the Board received Respondent Pierce County's Statement of Actions Taken to Comply (**SATC**), with Exhibit 1 – Ordinance No. 2007-109s, and Exhibits 2-21 documenting the public process undertaken in connection with Ordinance 2007-109s. The Board also received Respondent Pierce County's Compliance Index and Respondent's Motion for Expedited Compliance Hearing.

On December 18, 2007, the Board issued its Order Amending Compliance Schedule, setting an earlier Compliance Hearing.

On January 4, 2008, the Board received Petitioner Halmo's Response to Statement of Actions Taken to Comply (**Halmo Response**) and Supplemental Compliance Index to Statement of Actions Taken to Comply, with 18 Exhibits. Petitioners also submitted tapes and videos of County Council proceedings.

The CROWD petitioners filed no response to the SATC.

On January 7, 2008, the Board received Respondent Pierce County's Reply to Petitioner's Response to Pierce County's SATC (**County Reply**).

The Compliance Hearing was convened at 10:10 a.m. and adjourned at 12:00 noon, January 14, 2008, in the Palouse Room, Suite 2000, 800 Fifth Avenue, by Presiding Officer Margaret Pageler. Board members Ed McGuire and Dave Earling, and staff attorney Julie Ainsworth-Taylor were in attendance. Pierce County was represented by County Deputy Prosecuting Attorney Todd A. Campbell. The *pro se* Petitioners were represented by James Halmo, with Marilyn Sanders also in attendance. The CROWD Petitioners were represented by Kathy George, who was permitted to argue briefly, over the objections of the County that CROWD had submitted no written argument. Court reporting services were provided by Shelly Hoyt of Byers & Anderson. The Board did not request a transcript of the hearing.

At the Compliance Hearing, the County submitted three enlarged maps and Halmo submitted two marked maps. The submissions were admitted without objection:

- **Compliance Hearing Exhibit 1**- Graham RAC Ortho Map (Oct. 8, 2007) – aerial photo
- **Compliance Hearing Exhibit 2** – Adopted Graham RAC Existing Land Use (Oct. 22, 2007)
- **Compliance Hearing Exhibit 3** – Proposed Graham RAC Existing Land Use (Oct. 22, 2007)
- **Compliance Hearing Exhibit 4** – Halmo's "7/1/90 Uses"
- **Compliance Hearing Exhibit 5** – Halmo's Graham RAC (Nov. 5, 2007) with pre-1990 commercial parcels highlighted

DISCUSSION

The Remanded Issues

In the FDO the Board ruled that Pierce County's Graham Community Plan failed to comply with the requirements of the GMA in three respects:

- Expansion of the UGA for a 53-acre Employment Center along Meridian Avenue, south of 200th Street, without required consultation with the Pierce County Regional Council (Halmo Legal Issue 6);
- Establishment of an over-large LAMIRD for the Graham RAC,¹ in violation of RCW 36.70A.070(5)(d)(iv) (Halmo Legal Issue 9); and

¹ A LAMIRD is a "limited area of more intensive rural development," RCW 36.70A.070(5)(d). A RAC is a "Rural Activity Center," Pierce County's designation for a LAMIRD. For purposes of this decision, the use of RAC is synonymous with LAMIRD.

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- Technical amendments to other community plans, embedded in the Graham Plan, without the public notice required by RCW 36.70A.035 (Halmo Legal Issue 10).

The Board invalidated the County’s action with respect to the Employment Center and the Graham RAC. RCW 36.70A.320(4) provides that a county or city subject to a determination of invalidity “has the burden of demonstrating that the ordinance or resolution it has enacted in response to the determination of invalidity will no longer substantially interfere with the fulfillment of the goals of [the GMA].”

The County’s Compliance Action

On November 6, 2007, Pierce County Council adopted Ordinance No. 2007-109 (**Compliance Ordinance**). The Ordinance was adopted on an emergency basis, but nevertheless involved broad public notice and several opportunities for concerned citizens to testify. See SATC, Ex. 2-20.

The Board first takes up the uncontested issues – the Employment Center re-designation and the notice for the Technical Amendments – and then deals with the delineation of the LAMIRD.

UGA Expansion and Employment Center Re-designation – Halmo Legal Issue 6

The Board ruled that the expansion of the UGA for a 53-acre Employment Center along Meridian did not comply with the GMA in that Pierce County had failed to consult the Pierce County Regional Council, as required by its County-wide Planning Policies. FDO, at 9. The Board invalidated the action as an “inappropriate conversion” of land prohibited by Goal 2 of the GMA. FDO, at 48.

On remand from the Board, rather than referring the matter to the Pierce County Regional Council, the County Council removed the 53-acre Employment Center from the UGA and re-designated the area as Reserve 5, a rural zoning. SATC, at 4. The Petitioners raised no objection to this action, but questioned the County’s processing of certain land use applications which are not before this Board. Halmo Response, at 2.

The Board finds that, inasmuch as the County has decided not to expand the UGA, review by the Pierce County Regional Council is not required. The Board further finds and concludes that this portion of the Graham Plan no longer interferes with Goal 2 of the GMA, since sprawl is no longer being encouraged along this portion of Meridian. The Board will enter a **finding of compliance** and **rescind its determination of invalidity** on this issue.

Notice – Technical Amendments to Sub-area Plans – Halmo Legal Issue 10.

In enacting the Graham Community Plan, Pierce County also made some technical changes to regulations for other sub-areas. The technical amendments consisted of a change to the Use and Density/dimension Tables Agricultural Supply Sales Use Category for the various sub-area plans. SATC, Ex. 1C. In the FDO, the Board pointed out:

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... Ordinance No. 2006-53s, Exhibit A, amends density/dimension tables for Fredrickson, Gig Harbor, Mid-County, Parkland-Spanaway-Midland, South Hill, and areas outside community plan areas, in addition to Upper Nisqually and the Graham Plan area. *To the extent the County publicized the process* for consideration and adoption of Ordinance No. 2006-53s *as addressing only the Graham sub-area*, the County's notice and public process did not comply with RCW 36.70A.035(1).

FDO, at 15 (emphasis supplied).

In adopting the Compliance Ordinance, Pierce County included in the title to the Ordinance references to the various sub-area plans being amended, so that each publication of notice informed the public that the legislation affected more than just the Graham sub-area. SATC, Ex. 1, at 1. Further, the substantial publicity from the County prior to enactment of the Compliance Ordinance was designed to alert citizens in the affected areas, as well as throughout the County.

The County mailed notice to over 636 parties, including community advisory groups, e-mailed notice to its extensive internet subscription list, and published notice in four county newspapers, including weekly papers serving Eatonville, Orting, and Gig Harbor. SATC, at 6-10, 14-17; Ex. 2-20. Notices were provided, and reissued as needed, to announce the schedule for hearings before the Council's Community Development Committee (Oct. 22, 2007), the Graham Land Use Advisory Council (**LUAC**) (Nov. 7, 2007 – cancelled), the Planning Commission (Nov. 14, 2007 – cancelled), the Council's Rules and Operations Committee (Nov. 5, 2007), and the Full Council (Nov. 6, 2007). *Id.* Nine members of the public testified at the Community Development Committee hearing, six people at the Rules Committee, and seven at the Full Council. SATC, at 9-10.

Petitioners note that the County originally scheduled, but later cancelled, consideration by the Graham sub-area LUAC. Halmo Response, at 6-7. The Board does not find this to be a fatal flaw in the public procedure. Indeed, given the County's expedited consideration of the emergency ordinance, the Board finds that public notice and opportunity to be heard was compliant with the mandate of RCW 36.70A.035.

The Board finds that the process undertaken by Pierce County in enacting the Compliance Ordinance cured the deficiency in notice with respect to the technical amendments. The Board concludes that the County has **complied** with RCW 36.70A.035 with respect to the technical amendments to sub-area plans contained in the Graham Community Plan.

LAMIRD Graham RAC – Logical Outer Boundaries – Halmo Legal Issue 9

The Board found that the Graham Plan's delineation of the Graham Rural Activity Center (**RAC**) failed to comply with the GMA requirements for setting the logical outer boundaries of Local Areas of More Intensive Rural Development (**LAMIRDs**), which are

designed to contain intensive development. FDO, at 22-23. The Board entered a determination of invalidity with respect to the Graham RAC based upon substantial interference with Goal 2 - Reduce Sprawl. FDO, at 48-49.

In the Compliance Ordinance, the County reduced the size of the Graham RAC from 303 acres to 136 acres. The areas removed from the RAC are re-zoned R-10, a rural zoning.

The Growth Management Act defines LAMIRDS as nodes of developed land in the rural area, limited to the pre-1990 built environment, and generally providing services for the rural population. The Graham RAC is a LAMIRD. RCW 36.70A.070(5)(d) provides:

(d) Limited areas of more intensive rural development. Subject to the requirements of this subsection and except as otherwise specifically provided in this subsection (5)(d), the rural element may allow for limited areas of more intensive rural development, including necessary public facilities and public services to serve the limited area as follows:

(i) Rural development consisting of the infill, development, or redevelopment of existing commercial, industrial, residential, or mixed-use areas, whether characterized as ... rural activity centers, or crossroads developments.

....

(C) Any development or redevelopment in terms of building size, scale, use, or intensity shall be consistent with the character of the existing areas. Development and redevelopment may include changes in use from vacant land or a previously existing use so long as the new use conforms to the requirements of this subsection (5);

....

(iv) A county shall adopt measures to minimize and contain the existing areas or uses of more intensive rural development, as appropriate, authorized under this subsection. Lands included in such existing areas or uses shall not extend beyond the logical outer boundary of the existing area or use, thereby allowing a new pattern of low-density sprawl. Existing areas are those that are clearly identifiable and contained and where there is a logical boundary delineated predominately by the built environment, but that may also include undeveloped lands if limited as provided in this subsection. The county shall establish the logical outer boundary of an area of more intensive rural development. In establishing the logical outer boundary the county shall address (A) the need to preserve the character of existing natural neighborhoods and communities, (B) physical boundaries such as bodies of water, streets and highways, and land forms and contours, (C) the prevention of abnormally irregular boundaries, and (D) the ability to

provide public facilities and public services in a manner that does not permit low-density sprawl;

(v) For purposes of (d) of this subsection, an existing area or existing use is one that was in existence ... [o]n July 1, 1990.

The Court of Appeals, Division One, summarized the LAMIRD provisions in *Gold Star Resorts, Inc. v. Futurewise*, 140 Wn.App. 378, 391, 166 P.3d 748 (2007):

In general, LAMIRDs allow continuation of greater densities than are usually permitted in rural areas, such as commercial areas at crossroads LAMIRDS must be mapped and restricted to their existing use, so as to “minimize and contain” more intensive development.

In enacting the Compliance Ordinance, Pierce County reviewed the statutory criteria for LAMIRDs cited above. The pre-1990 commercial activities in the area were identified. Compliance Hearing Ex. 4, 5. The invalidated Graham RAC had delineated a commercial area that stretched from the UGA boundary on the north at 210th down Meridian to the 234th Street right of way on the south. See, Halmo Response, Ex. 4 (green boundary). In the Compliance Ordinance, the County created a more focused commercial node at Meridian and 224th. *Id.* (red boundary). Properties along Meridian from 220th to the UGA that had been included in the invalid Graham RAC were deleted and rezoned R-10 to create a gap between the LAMIRD and the UGA.² SATC, Ex. 1D, at 3. The County asserts that the reduction in the size and configuration of the RAC along Meridian minimizes the extent of commercial strip development and removes the substantial interference with Goal 2 – Reduce Sprawl.

In public hearings on the proposed revisions to the Graham RAC that had been offered by County planning staff, the County heard from several property owners who requested to have their property included in the LAMIRD and who cited pre-1990 businesses on their premises. County Reply, at 5-6. The County approved several of these requests, shrinking the staff-proposed LAMIRD boundary on the north as lots were added on the south and east.

During the County’s remand process, Petitioner Halmo also testified and brought his concerns and opinions to the Council for their deliberation; but Petitioner’s recommendations were not adopted.

The reconfigured Graham RAC that the County has adopted expresses the County’s latest effort at trying to draw a logical outer boundary for a commercial center or node in this difficult area. Commercial strip development along Meridian is notorious, with much of it existing prior to the adoption of the GMA. Looking at the “built environment” around the intersection of 224th and Meridian on the aerial photo (Compliance Hearing Exhibit No. 1)

² Some of this area has already been developed. See Compliance Hearing Ex. 1 and Halmo Response, Ex. 5. 07304c *Halmo, et al. v. Pierce County* (Jan. 23, 2008)

reminds one of ‘pepper on an egg.’ There are existing structures scattered throughout the entire area separated by open tracts – a center or node is not clearly identifiable or obvious. Needless to say, trying to define, let alone configure, a LAMIRD for the Graham area is an onerous task – subject to many alternatives and opinions.

The Board was impressed with the effort Petitioner devoted to developing a detailed parcel-by-parcel analysis for the Board’s compliance hearing. *See*, Halmo Response, Ex. A: “*Graham RAC Logical Outer Boundaries: An Analysis.*” Generally, Halmo recognized that the County had a number of options in delineating the Graham RAC and determining its logical outer boundary. However, he asked the Board to review several anomalies: (1) on the north, the irregular panhandle boundary and the exclusion of long-standing commercial lots; (2) on the east, the inclusion of 10 acres of undeveloped residential land east of the designated roadway boundary; (3) to the west of Meridian and south of 224th, inclusion of a large tract of vacant land and several mobile home tracts (mobile homes are a non-conforming use in the RAC); and (4) on the south, inclusion of vacant land. *Id.*

The question before the Board is whether the configuration of the Graham RAC that the County has adopted has minimized and contained the built environment with logical outer boundaries. Most germane to this question are the “physical boundaries such as water bodies, streets and highways, and land forms and contours” and “the prevention of abnormally irregular boundaries.” RCW 36.70A.070(5)(d)(iv).

Using the intersection of 224th Street and Meridian as a central point, the Board looks at the four quadrants focused on the new Graham RAC node. *See* CH Exs. 1, 2, 3 and 4.

- **NW:** The northwest quadrant includes substantial existing and ongoing commercial development to the west along 224th and north along Meridian. The County-established logical outer boundary (**LOB**) for this quadrant follows property lines along existing development with a few vacant parcels included. Although there are other “built” parcels nearby that could have been included, the County chose not to do so. The Board does not find that the County’s selected delineation of the LOB in this area is abnormally irregular or clearly erroneous.
- **SW:** The southwest quadrant includes existing development along Meridian, but includes vacant parcels going west along 224th. The County-established LOB along 224th is defined by a railroad; several large parcel boundaries set the depth of the LOB along Meridian and the southern terminus is 232nd Street. South of 232nd Meridian begins a gradual ascent up a hill – a land form or contour. Again there are vacant parcels among the existing built development that are included, but nonetheless, a LOB defines the area. The Board does not find that the County’s selected delineation of the LOB in this area is abnormally irregular or clearly erroneous.
- **SE:** The southeast quadrant extends south along Meridian to 234th Street, as the hill begins to rise. The eastern boundaries in this quadrant again follow property

lines of existing development, some of it commercial, with some vacant land included. One included tract, which apparently housed a sign company prior to 1990 and forms the eastern boundary, is adjacent to a “proposed” new road. The Board does not find that the County’s selected delineation of this LOB is abnormally irregular or clearly erroneous.

- **NE:** The northeast quadrant extends north along Meridian in a narrow strip. The eastern boundary along 224th only extends to the depth of the existing commercial development at the intersection. There are proposed developments backing onto this eastern boundary and existing development just down the road along 224th. It is arguable that the LOB for this quadrant could have or should have been extended further down 224th to give some equal proportion to the four quadrants of this commercial node – the Graham RAC – but that decision lies with the County, not the Board, nor Mr. Halmo. Consequently, the Board does not find the County’s selected delineation of this LOB to be abnormally irregular or clearly erroneous.

The Board finds the County’s action regarding the Graham RAC to be compliant. The Board notes that the County carefully reviewed the uses on the land in an effort to contain, confine, and focus future intensive commercial development to the node centered on the Meridian-224th crossroads. The County also broke up the designated commercial strip along Meridian to the north by creating a distance between the boundary of the UGA at 210th and the northern boundary of the Graham RAC at 220th. The County minimized the size of the Graham RAC, reducing it from 300 acres to 136 acres. The County took into consideration vested developments based on the prior RAC configuration and zoning, but relied primarily on commercial activity documented on the properties prior to July 1, 1990. In most cases, the County relied on roadways or rail lines (built or planned) as the logical outer boundaries of the LAMIRD. While different conclusions might be possible on the inclusion or exclusion of specific parcels, the Board is not persuaded that the County’s actions were clearly erroneous.

The Board finds that the re-configured Graham RAC, as enacted by the County in the Compliance Ordinance, complies with the LAMIRD criteria of RCW 36.70A.070(5)(d)(iv). The Board further finds and concludes that this portion of the Graham Plan no longer interferes with GMA Goal 2 – Reduce Sprawl. The Board will enter a **finding of compliance** and **rescind its determination of invalidity** on this issue.

III. FINDING OF COMPLIANCE

Based upon review of the September 28, 2007 Final Decision and Order, the Pierce County Statement of Actions Taken to Comply, Petitioner Halmo’s Response, the Board’s review of Ordinance No. 2007-109s and other documents in the record, the arguments and comments offered in the briefing and at the compliance hearing, the Board finds:

- By adopting Ordinance No. 2007-109s Pierce County has complied with the goals and requirements of the GMA as set forth in the Board’s FDO and the GMA. The Board therefore enters a **finding of compliance** for Pierce County Re: Ordinance

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No. 2007-109s [Graham Community Plan], pertaining to Legal Issues 6, 9, and 10. Additionally, the Board **rescinds the determination of invalidity** for Legal Issues 6 and 9.

IV. ORDER

Based upon review of the September 28, 2007 Final Decision and Order, the Pierce County Statement of Actions Taken to Comply, Petitioner Halmo's Response, the Board's review of Ordinance No. 2007-109s and other documents in the record, the arguments and comments offered in the briefing and at the second compliance hearing, and having deliberated on the matter, the Board ORDERS:

CPSGMHB Case No. 07-3-0004c, *Halmo, et al v Pierce County*, is **closed**. Pierce County's adoption of Ordinance No. 2007-109s corrects the deficiencies found in Ordinance Nos. 2006-52s and 2006-53s and **complies** with the goals and requirements of the GMA as set forth in the Board's September 28, 2007 FDO. The Board therefore enters a **finding of compliance and rescinds the determination of invalidity** for Pierce County Re: Ordinance No. 2007-109s [Graham Community Plan].

So ORDERED this 23rd day of January, 2008.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

David O. Earling
Board Member

Edward G. McGuire, AICP
Board Member

Margaret A. Pageler
Board Member [dissenting in part]

Note: This order constitutes a final order as specified by RCW 36.70A.300 unless a party files a motion for reconsideration pursuant to WAC 242-02-832.³

Dissent in Part of Board Member Pageler

I concur with the Board's decision that the Compliance Ordinance brings the County into compliance concerning the UGA expansion and proper notice for the technical amendments. As to the delineation of the Graham RAC, I respectfully dissent.

The County Council's delineation of the Graham RAC adds another quarter mile to the seemingly-inevitable march of commercial strip development south on Meridian Avenue through the County. In the face of the unplanned and uncontained sprawl that has made South Hill a regional byword for bad planning, the County Council needed to draw a line at Graham. The GMA defines that line when it describes LAMIRDs and requires that a LAMIRD have a "logical outer boundary" that effectively "minimizes and contains" the more intensive development.

LAMIRDs are unique in the GMA. The statute is generally deferential to cities and counties, providing few "bright line" criteria for GMA planning actions. But with LAMIRDs, the legislative intent is clear and the criteria are specific. LAMIRDs protect and serve rural areas by recognizing pre-1990 nodes of denser development, such as cross-roads commercial districts that serve the rural population. The nodes are "predominantly" determined by the pre-1990 "built environment." The County must "minimize and contain" additional development and redevelopment by the establishment of a "logical outer boundary."

(iv) A county shall adopt measures to *minimize and contain* the existing areas or uses of more intensive rural development, as appropriate, authorized under this subsection. Lands included in such existing areas or uses *shall not extend* beyond the logical outer boundary of the existing area or use, thereby allowing a new pattern of low-density sprawl. Existing areas

³ Pursuant to RCW 36.70A.300 this is a final order of the Board.

Reconsideration. Pursuant to WAC 242-02-832, you have ten (10) days from the date of mailing of this Order to file a motion for reconsideration. The original and three copies of a motion for reconsideration, together with any argument in support thereof, should be filed with the Board by mailing, faxing or otherwise delivering the original and three copies of the motion for reconsideration directly to the Board, with a copy served on all other parties of record. Filing means actual receipt of the document at the Board office. RCW 34.05.010(6), WAC 242-02-240, WAC 242-020-330. The filing of a motion for reconsideration is not a prerequisite for filing a petition for judicial review.

Judicial Review. Any party aggrieved by a final decision of the Board may appeal the decision to superior Court as provided by RCW 36.70A.300(5). Proceedings for judicial review may be instituted by filing a petition in superior Court according to the procedures specified in chapter 34.05 RCW, Part V, Judicial Review and Civil Enforcement. The petition for judicial review of this Order shall be filed with the appropriate Court and served on the Board, the Office of the Attorney General, and all parties within thirty days after service of the final order, as provided in RCW 34.05.542. Service on the Board may be accomplished in person or by mail, but service on the Board means actual receipt of the document at the Board office within thirty days after service of the final order. A petition for judicial review may not be served on the Board by fax or by electronic mail.

Service. This Order was served on you the day it was deposited in the United States mail. RCW 34.05.010(19)

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are those that are *clearly identifiable and contained* and where there is a logical boundary *delineated predominately by the built environment*, but that may also include undeveloped lands if limited as provided in this subsection. The county shall establish the logical outer boundary of an area of more intensive rural development. In establishing the logical outer boundary the county shall address ... (B) *physical boundaries such as* bodies of water, *streets and highways*, and land forms and contours, (C) *the prevention of abnormally irregular boundaries*

RCW 36.70A.070(5)(d)(iv), emphasis supplied.

In enacting the Compliance Ordinance, the Pierce County Council, responding to importuning property owners, disregarded these statutory mandates. For example, the County extended the LAMIRD to the east to include Parcel 0418152019, a parcel on which the owner claimed a pre-1990 electrical sign business had been operated, providing evidence of a state business license. Halmo Response, Ex. 9. However, the GMA criteria delineates activity predominantly based on the “built environment,” not on whether a farm house was once used for a tax preparation office or a barn was once used for auto repair. The aerial map supplied by the County – Compliance Hearing Ex. 1 – doesn’t indicate commercial development on this lot, and neither the County staff nor the property owner demonstrated any evidence of pre-1990 commercial development in the “built environment.” Further, in adding this 10-acre parcel to the LAMIRD, the County broke away from the roadway alignment they otherwise relied on for the southeastern boundary of the LAMIRD, making an irregular boundary based only on a lot line and setting the stage for special pleading by the next property owner and more ad hoc land use decisions.

As the Western Board has noted:

The creation of a logical outer boundary is not a justification for adding rural lands when those lands significantly expand the potential for more intensive rural development because this would not “minimize and contain” more intensive rural development. ... “Infill” is specifically contemplated in the statute so that the mere addition of some lots through infill does not necessarily violate the restrictions of RCW 36.70A.070(5)(d)(i) and (iv). However, “outfill” or the inclusion of larger tracts of land on the periphery of the built environment is of major concern as adding to, rather than minimizing and containing, more intensive rural development.

1000 Friends of Washington v. Thurston County, WWGMHB Case No. 05-2-00002, Compliance Order – LAMIRDs and Lot Aggregation (Nov. 30, 2007), at 18.

Perhaps of even more concern were Pierce County’s actions to extend the LAMIRD south of the railroad tracks. Again, the County Council’s decisions were apparently taken in response to requests from individual property owners, without a clear focus on how to “minimize and contain” the non-stop commercial sprawl down Meridian. The County apparently reasoned that shrinking the Graham LAMIRD north of 224th, creating a little

panhandle with an irregular boundary at the northeast, would justify adding more undeveloped acreage at the south.

However, the GMA statutory criteria are specific – the goal is not some optimum acreage but is to “minimize and contain” more intensive development in the rural area. As CTED’s comment letter pointed out, not every pre-1990 commercial activity needs to be included in a LAMIRD, especially if the activity (like the Graham Hay Market) clearly serves only rural needs:

Even for those parcels that have some commercial use, it is not necessary to include them within a LAMIRD if the existing use is an appropriate rural use. This is especially important in cases where inclusion within the LAMIRD will allow a significant increase in the intensity of the use and contribute to a greater intensity of uses in a rural area.

PC 2-60, cited at FDO, 23. By allowing commercial creep south of the railroad right-of-way, based on property-owner demands, the County Council undercut the GMA requirement for a logical outer boundary that might effectively contain commercial strip development.

I would find the delineation of the Graham RAC non-compliant with the LAMIRD criteria of RCW 36.70A.070(5)(d)(iv) and would remand for determination of a logical outer boundary, delineated by the pre-1990 built environment, that minimizes and contains more intensive development.