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SNOHOMISH COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON

AMENDED ORDINANCE NO. 01-131
ADOPTING AMENDMENTS
TO THE FUTURE LAND USE MAP AND TEXT OF THE GROWTH MANAGEMENT ACT
COMPREHENSIVE PLAN RELATING TO
THE CLEARVIEW RURAL COMMERCIAL AREA

WHEREAS, on December 20, 2000, the Snohomish County Council adopted Ordinance No. 00-091 amending the County's Future Land Use Map (FLUM) and General Policy Plan (GPP), both part of the Growth Management Act Comprehensive Plan (GMACP), to create a "limited area of more intensive rural development" (LAMIRD) in the Clearview area of unincorporated Snohomish County; and

WHEREAS, the Central Puget Sound Growth Management Hearings Board (hereafter Board) issued its Final Decision and Order on August 15, 2001 in *Hensley and McVittie v. Snohomish County (Hensley IV)*, Consolidated Case No. 01-3-0004c, holding that the County's adoption of the Clearview LAMIRD (1) failed to comply with the LAMIRD requirements of the Growth Management Act (GMA), codified at RCW 36.70A.070(5); and (2) was not guided by GMA planning goals 1, 2, and 3, codified at RCW 36.70A.020; and

WHEREAS, the Board set an initial deadline of November 14, 2001, for the County to take appropriate legislative action to repeal, amend or otherwise modify the Clearview LAMIRD and plan policies adopted by Ordinance No. 00-091 to comply with the requirements of RCW 36.70A.070(5) and the GMA planning goals; and

WHEREAS, the Board subsequently extended the compliance deadline from November 14, 2001 to February 11, 2002; and

WHEREAS, it is the desire and intent of the Snohomish County Council to comply with the Board's order to repeal, amend or otherwise modify the Clearview LAMIRD designation and plan policies by adopting this ordinance amending the GMACP, as well as Ordinance No. 01-133, amending Title 18 SCC and Ordinance No. 01-132 adopting an area-wide rezone for Clearview; and

WHEREAS, the Board's compliance deadline requires that the Council conduct its GMA public participation for this ordinance pursuant to SCC 32.05.023; and

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Ordinance No. 01-131 as Amended and Adopted by Council 2/6/02
Adopting amendments to the GMACP GPP text and FLU Map

WHEREAS, on January 23, 2002 and February 6, 2002, following public notice pursuant to chapter 32.05 SCC and consideration of the legislative record before the Council upon adoption of Ordinance No. 00-091, the County Council held a public hearing to consider the entire record and hear public testimony on Ordinance Nos. 01-131, 01-132, and 01-133.

NOW, THEREFORE, BE IT ORDAINED:

Section 1. The Snohomish County Council adopts and incorporates the foregoing recitals as findings of fact and conclusions.

Section 2. The county council makes the following additional findings of fact and conclusions regarding the amendments to the GMACP relating to the Clearview Commercial Study Area:

- A. Compliance with the Board's order requires amendments to those portions of the General Policy Plan (GPP) and FLUM related to the Clearview LAMIRD and Rural Commercial designation.
- B. This ordinance amends the GPP and FLUM in order to establish two LAMIRDs pursuant to RCW 36.70A.070(5)(d), shown as "Clearview LAMIRD" on the FLU map. These amendments allow more intensive rural commercial development within clearly defined logical outer boundaries that include only those properties which either (1) contain commercially developed areas that existed on or before July 1, 1990, (2) qualify as "infill development" between commercially developed areas that existed on or before July 1, 1990, or (3) are necessary to avoid an abnormally irregular logical outer boundary. These amendments further contain and minimize such development by requiring landscape buffers along LAMIRD boundaries adjacent to rural residential areas and imposing limits on building size, impervious surfaces, and lot coverage.
- C. The Clearview LAMIRDs adopted by these amendments include a total of 100.7 acres, approximately 21% less than the 127 acres included in the LAMIRD created by the adoption of Ordinance No. 00-091. Properties previously within the LAMIRD created by Ordinance No. 00-091 will be re-designated from Rural Commercial to Rural Residential if they do not satisfy the criteria set forth in Finding B, above.
- D. As explained below, the Clearview LAMIRDs created by these amendments are consistent with the requirements of RCW 36.70A.070(5)(d)(i), (iv), and (v).
 1. 164th Street LAMIRD: The northern portion of this LAMIRD is located at the intersection of State Route 9 and 164th Street SE. This LAMIRD will not extend beyond the boundary of the existing area or use, which is delineated predominantly by the built environment that existed on or before July 1, 1990. It consists of a total of approximately 16.5 acres, excluding the road right-of-way.

Its designation as a LAMIRD is supported by the following findings as required by RCW 36.70A.070(5)(d)(iv):

- i) Existing area as of July 1, 1990. The SE and SW corners of this intersection contain commercial development that existed prior to July 1, 1990; and permits are pending for a commercial use on the third corner. This area has historically been a commercial area. The commercial uses on these corners consist of a small restaurant, a coffee roasting company, grain store, gas station and a grocery store. The parcels are currently designated Clearview Rural Commercial on the FLU map of the GPP, and this ordinance retains that designation.
- (ii) Contain and minimize existing LAMIRD areas and uses: This LAMIRD includes only those properties containing commercial uses that existed prior to July 1, 1990, limited infill and parcels which are needed to create a more regular logical outer boundary. Areas outside of the LAMIRD designation will be re-designated from Clearview Rural Commercial to Rural Residential.
- (iii) Logical Outer Boundaries:
 - (1) The need to preserve the character of existing natural neighborhoods and communities. The boundary for the Clearview Rural Commercial designation at this intersection will preserve character of existing natural neighborhoods and communities. The south, west, and east boundaries at this intersection are based on the property lines of commercially developed properties. Residential neighborhoods are not split or included within the designation.
 - (2) Physical boundaries such as bodies of water, streets and highways. The boundaries include all four corners created by the intersection of State Route 9 and 164th Street SE. Three corners are developed or developing with commercial uses. The fourth corner contains several small lots, which do not meet minimum residential lot size requirements and which will be significantly impacted by traffic generated by existing and proposed commercial development on the other three corners of the intersection. Property lines and a stream and gully delineate the southern boundary of the southeast corner. The roadways, stream/gully, and a gradual slope existing to the east are the only significant physical boundaries existing at this intersection.
 - (3) The prevention of abnormally irregular boundaries. By generally following property lines of included properties, the boundaries of this LAMIRD are regular and do not contain jagged or irregular protrusions.
 - (4) The ability to provide public facilities and public services in a manner that does not permit low-density sprawl. The properties included in this LAMIRD are served by a public water system, but are not served by

sanitary sewers. Development will continue to be served only by on-site sewage disposal systems. No extension of the public water or sewer system is needed to serve future development as uses are regulated by limiting lot coverage, impervious surfaces and building sizes to a rural level.

2. 180th Street LAMIRD: This LAMIRD is located east and west of SR 9 generally extending between the intersection of 172nd Street/SR 9 and just south of 184th Street/SR 9. It consists of approximately 79.2 acres, excluding the road right-of-way and five acres of R-5, and will not extend beyond the boundary of the existing area or use as delineated predominantly by the built environment. Its designation as a LAMIRD is supported by the following findings as required in RCW 36.70A.070(5)(d):

- i) Existing area as of July 1, 1990. This LAMIRD is clearly identifiable as an existing commercial area. Its boundaries were first established by the Cathcart-Maltby-Clearview Plan, adopted on March 4, 1987, and there have been commercial uses in the area since the late 1930s. The LAMIRD includes the built environment that existed prior to July 1, 1990, which consists of grocery stores, a barber shop, gas stations, restaurants, RV repair and sales, auto repair stores, a veterinary clinic, dental office, and other retail stores, as well as a community club, an electrical substation and a fire station. This LAMIRD also includes an area located to the north of 176th Street that contained zoned commercial uses in 1995 and qualifies as "limited infill development" by virtue of its location between areas that contained commercial development on or before July 1, 1990.
- ii) Minimize and contain existing LAMIRD areas and uses: This LAMIRD excludes approximately 27 acres located between 172nd Street SE/SR 9 and 164th Street SE/SR9 which were included in the LAMIRD adopted by Ordinance No. 00-091. These sites are properly excluded because they are neither developed with commercial uses that existed before July 1, 1990 nor located between properties that contain such development. For this reason, they will be re-designated from Clearview Rural Commercial to Rural Residential.
- iii) Logical Outer Boundary of the Area or Use
 - (1) The boundary for the Clearview Rural Commercial designation at this intersection will preserve the character of existing natural neighborhoods and communities. The west and east boundaries at this intersection are based on the property lines of areas developed with commercial uses abutting SR 9, or limited infill between those areas. The north and south boundaries generally follow roadways and the parcel limits of existing commercial uses. A residential neighborhood, consisting of 7 parcels and a church, located west of the intersection of 172nd Street/SR 9 is included

within the LAMIRD boundaries because this pattern of small residential lots is a cohesive part of the settlement pattern in Clearview. The neighborhood is located between two commercial areas in existence as of July 1, 1990, and its inclusion prevents the creation of an abnormally irregular boundary.

- (2) The boundary is based on available physical boundaries such as bodies of water, streets and highways, and land forms. The southern boundary is formed by an existing use at the intersection of 184th Street SE and the parcel lines of properties developed with commercial uses, and includes all four corners of the intersection. The northern boundary is formed by the northeast and northwest corners of the intersection of 172nd/SR 9, following the parcel lines of properties developed with commercial uses on or before July 1, 1990. The east and west boundary generally follows property lines of properties developed with an existing commercial use on or before July 1, 1990. A vested and heavily built commercial plaza is included in the LAMIRD, as it is a cohesive part of the commercial settlement pattern in Clearview and qualifies as infill between commercial areas in existence on or before July 1, 1990. The western property line provides a logical outer boundary for the northwest portion of the LAMIRD.
- (3) The need to prevent abnormally irregular boundaries. Boundaries generally follow the property lines of commercially developed properties, except where designation of the entire parcel would result in an irregular boundary or significantly impact adjacent rural residential uses.
- (4) The ability to provide public facilities and public services in a manner that does not permit low-density sprawl. The properties included in this LAMIRD are served by a public water system, but are not served by sanitary sewers. Development will continue to be served only by on-site sewage disposal systems. No extension of the public water or sewer system is needed to serve future development as uses are regulated by limiting lot coverage, impervious surfaces and building sizes to a rural level.

E. The LAMIRDs created by this ordinance are implemented by the Clearview Rural Commercial zone and the existing R-5 zone.

F. The amendments to the GPP and FLU map will harmonize the Rural Element with each of the twelve planning goals contained in RCW 36.70A.020:

1. Urban growth. The proposed amendments to the GPP and FLU map will limit growth in the Clearview Rural Commercial designation to more intense rural uses and densities that can be supported by rural facilities at rural service levels. The new implementing zones will restrict building footprint and total square footage of

buildings and impose additional landscape and buffer requirements. Together, these amendments and the implementing zones will prevent urban growth.

2. Reduce sprawl. The proposed amendments to the GPP and FLU map limit and contain more intense rural development into two compact geographic areas containing commercial uses that existed on or before July 1, 1990.
3. Transportation. The proposed amendments are consistent with the transportation element of the GMACP and will minimize the need for future transportation improvements by containing rural development and preventing sprawl.
4. Housing. The proposed amendments to the GPP and FLU map will protect existing residential neighborhoods and housing from redevelopment for other uses.
5. Economic development. The proposed amendments to the GPP and FLU map will limit commercial uses in the rural area to a level that can be supported by existing public services and facilities, but which will still provide for limited infill to accommodate local employment opportunities and services to serve the surrounding rural population.
6. Property rights. The adoption of the proposed amendments to the GPP and FLU map does not effect or encourage the taking of private property for public uses without just compensation.
7. Permits. The addition of objectives and policies to direct growth within the two Clearview LAMIRDs will provide additional predictability to the commercial permit process.
8. Natural resource industries. By limiting and containing more intense rural development primarily within areas that contained commercial development on or before July 1, 1990, the County is protecting and conserving natural resources and discouraging incompatible uses.
9. Environment. By containing more intense rural development within existing developed areas, the County is reducing impacts to air, ground and surface water quality.
10. Citizen participation and coordination. During the preparation of the proposed Clearview Rural Commercial (CRC) area from 1997 to 2000, the Snohomish County Department of Planning and Development Services held three public workshops/open houses and one focus group session, and the Snohomish County Planning Commission and county council each held one public hearing. Public notice requirements for these hearings was provided pursuant to SCC 32.50.060(3)(b) through (e) and (h). In 2001, during the zoning implementation phase, the County held one public meeting and one planning commission hearing.

11. Public facilities and services. The proposed amendments to the GPP and FLU map are consistent with the capital facilities and transportation elements of the GMACP and will not decrease service levels below locally established minimum standards.
 12. Historic preservation. There are no known lands, sites, or structures with historic or archaeological significance within the proposed Clearview Rural Commercial designation. The amendments will continue to allow commercial uses within an area that has historically been developed with small-scale commercial uses.
- G. The proposed amendments to the GPP text and FLU map will discourage low-density sprawl and strip development north of the intersection of 164th/SR 9, south of the intersection of 184th/SR 9, and between the two designated Clearview LAMIRDs by minimizing and containing future commercial development or redevelopment to areas within the two existing commercial areas in existence prior to July 1, 1990.
 - H. The proposed amendments are consistent with Countywide Planning Policy RU-5 requiring guidelines that limit commercial development outside of Urban Growth Areas while still allowing limited commercial development for the convenience and daily needs of rural residents. The proposed amendments will allow limited infill and contain development within the outer boundaries of existing areas characterized by more intense rural development.
 - I. In enacting legislation in response to the Board's remand order in *Hensley IV*, the County is required under the GMA to provide for public participation that is appropriate and effective under the circumstances.
 - J. Pursuant to chapter 32.05 SCC, the County held planning commission and council hearings for this Ordinance, as well Ordinance Nos. 01-132 and 01-133, following the publication of notices in the Everett Herald of the time, date, place, and purpose of the hearings at least ten days prior to the hearings.
 - K. Following published notice on November 6, 2001, the planning commission held a public hearing on Ordinance Nos. 01-131, 01-132, and 01-133 on November 20, 2001, providing opportunity for public participation on the proposed amendments to the GPP text, FLU map, Title 18, and the area-wide rezone for Clearview.
 - L. Following published notice on January 2, 2002, the county council held a public hearing on Ordinance Nos. 01-131, 01-132, and 01-133, on January 23, 2002 and continued to February 6, 2002, providing an opportunity for public participation on the proposed amendments to the GPP text, FLU maps, Title 18, and the area-wide rezone for Clearview.
 - M. The amendments to the GMACP satisfy the procedural and substantive requirements of the GMA.

- N. The amendments maintain the GMACP's consistency with the multi-county policies adopted by the Puget Sound Regional Council and with the Snohomish County Countywide Planning Policies.
- O. The amendments to the GPP text are consistent with the Rural Lands element of the GPP and the requirements in RCW 36.70.070A(5)(d) for LAMIRDs.
- P. The amendments to the GPP text will provide the policy framework necessary to contain and guide future commercial development within the Clearview Rural Commercial area.
- Q. The County conducted environmental review for the Clearview Commercial Study area alternatives, including proposed zoning, according to the provisions of the State Environmental Policy Act, Revised Code of Washington chapter 43.21C, and the Snohomish County Environmental Policy Ordinance Title 23 SCC, through issuance of a draft Supplemental Environmental Impact Statement (DSEIS) to the GMACP final EIS on July 19, 2000, a final SEIS on November 28, 2000, and an addendum to the final SEIS on May 16, 2001.
- R. The Council concludes that taking the actions in Ordinance Nos. 01-131, 01-132, and 01-133 is necessary for the immediate preservation of the public peace, health and safety and for the support of county government and its existing public institutions. These actions are necessary to meet the Board's compliance deadline of February 11, 2002, and to bring the County into compliance with the GMA, as interpreted by the Board in *Hensley IV*.

Section 3. The county council bases its findings of facts and conclusions on the entire record before the county council, including all testimony and exhibits.

Section 4. Based on the foregoing findings and conclusions, the Snohomish County Growth Management Act Comprehensive Plan - General Policy Plan adopted as Exhibit A in Section 4 of Amended Ordinance 94-125 on June 28, 1995, and last amended by Amended Ordinance No. 01-090 on November 20, 2001, is amended as indicated in General Policy Plan (GPP) Amendments dated December 12, 2001, which is attached hereto as Exhibit A and incorporated by reference into this ordinance as if set forth in full.

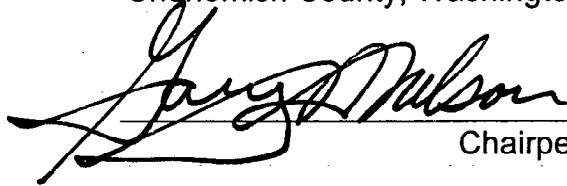
Section 5. Based on the foregoing findings and conclusions, the Snohomish County GMACP Future Land Use Map adopted as Map 4 of Exhibit A in Section 4 of Amended Ordinance No. 94-125 on June 28, 1995, and last amended by Amended Ordinance No. 01-073 on November 7, 2001, is amended as indicated in Exhibit B, which is attached hereto and incorporated by reference into this ordinance as if set forth in full.

Section 6. Severability. If any section, sentence, clause or phrase of this ordinance shall be held to be invalid or unconstitutional by the Growth Management Hearings Board (Board), or a court of competent jurisdiction, such invalidity or unconstitutionality

shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance. Provided, however, that if any section, sentence, clause or phrase of this ordinance is held to be invalid by the Board or court of competent jurisdiction, then the section, sentence, clause or phrase in effect prior to the effective date of this ordinance shall be in full force and effect for that individual section, sentence, clause or phrase as if this ordinance had never been adopted.

PASSED this 10th day of February, 2002.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington


Chairperson

ATTEST:


Clerk of the Council, *asst.*

- () APPROVED
- () EMERGENCY
- () VETOED

DATE: _____

Snohomish County Executive

ATTEST: _____

Approved as to form only:

Brent D. Lloyd
Deputy Prosecuting Attorney

D-15

Exhibit A
December 12, 2001

Amended Ordinance No. 01-131

Please note:

Underlined and strike-out text indicates amendments to the GPP text. All page references are to page numbers in the GPP that has been in effect since January 1, 2001.

Amend objective LU 6.I on page LU-37:

Objective LU 6.I. Within the rural Clearview area and along State Route 9, establish a two limited areas of more intense rural development that within logical outer boundaries that are based on commercial uses in existence as of July 1, 1990, and that which permits limited infill, development or limited redevelopment within existing areas. developed primarily with commercial uses.

Amend policies LU 6.I.1 through LU 6.I.10 on pages LU-37 to LU-39 as follows:

- LU 6.I.1 Recognize the existing commercial and residential settlement pattern development in the area of southeast Snohomish County along State Route 9 between 184th and 172nd Streets SE and at 164th Street SE as limited areas of more intense rural development (LAMIRDs) that provide retail goods and services to the immediate population and a larger surrounding service area and allow limited infill adjacent to existing commercial development.
- LU 6.I.2 Areas with an existing commercial designation or zoning within LAMIRD boundaries shall be designated Clearview Rural Commercial (CRC). ~~The limited areas of more intense rural development shall be included within the Clearview Rural Commercial (CRC) designation.~~
- LU 6.I.3 Areas designated Rural Residential within LAMIRD boundaries shall retain the existing Rural Residential designation.
- LU 6.I.34 Rural residents should have access to a mix of small scale retail sales, personal services and job opportunities within the CRC designation.
- LU 6.I.45 Prevent strip development by minimizing and containing infill and redevelopment within the logical outer boundaries of two distinct existing commercial nodes in the Clearview area.

LU 6.I.56 The boundaries of the Clearview LAMIRDs are shown on the Future Land Use map. The boundaries are based on those found in the Cathcart-Maltby-Clearview area plan, generally follow parcel lines and include parcels which meet the following criteria:

- a) The area does not contain extensive critical areas, and
- b) The area is developed with a commercial use which was in existence on or before July 1, 1990; or
- c) The area is zoned Neighborhood Business or Community Business and ~~a commercial use was vested or permitted prior to July 1, 2000~~ and is a cohesive part of the existing commercial settlement pattern; or
- d) The remaining area constitutes infill, as it is located between and adjacent to two larger areas meeting criteria b) or c) above, or is along the boundary edge and its exclusion would create an irregular boundary.

LU 6.I.67 Implement the CRC designation through zoning and development standards which reduce impacts of new infill development or redevelopment to adjacent rural residential areas and rural character:

~~(a) For all new development or redevelopment within the Clearview Rural Commercial designation a fifty foot wide landscape buffer shall be required adjacent to areas designated Rural Residential. The buffer should be designed to preserve native vegetation and existing trees of three inch caliper or larger~~

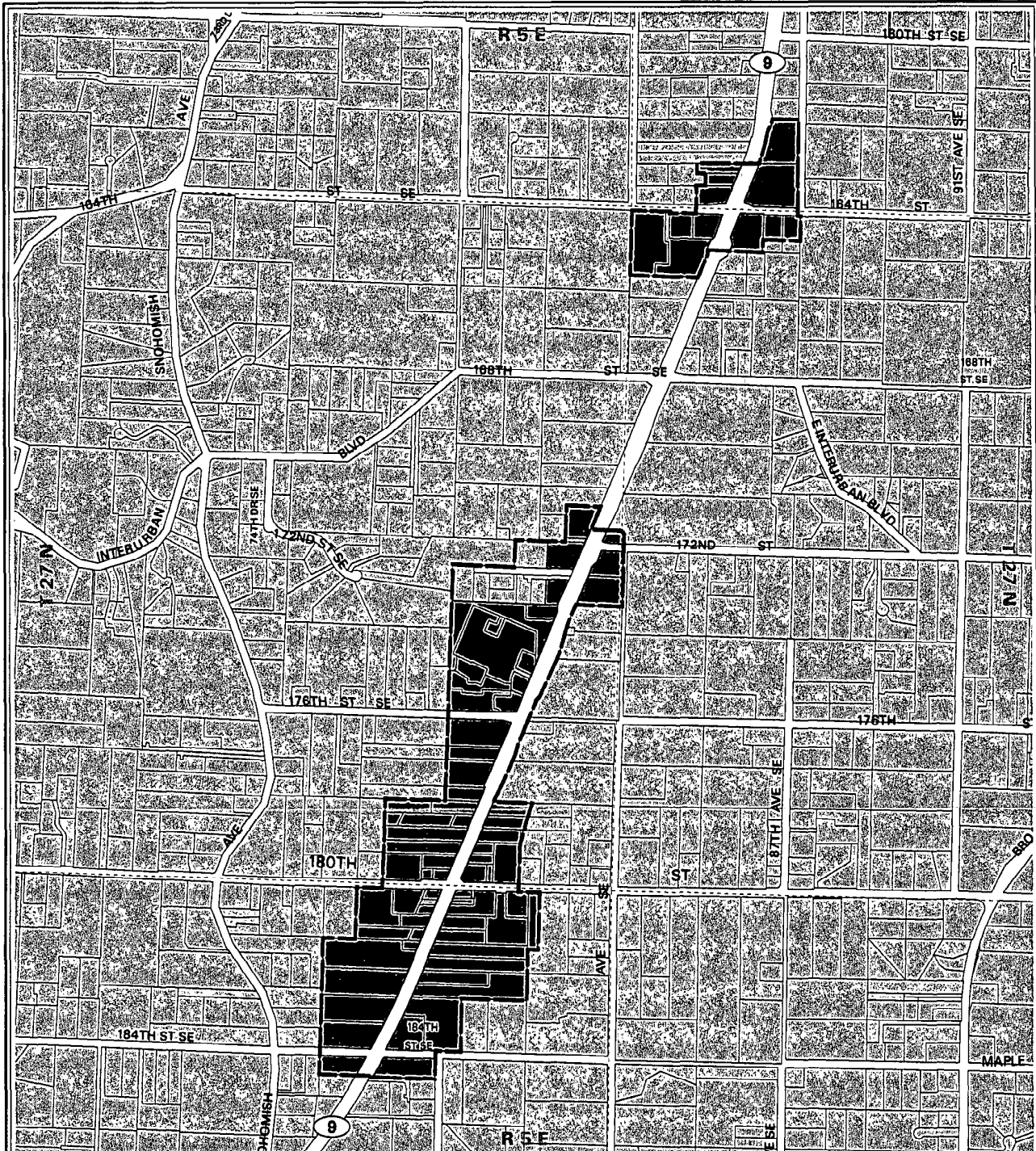
- a) Require a twenty-five foot wide sight-obscuring landscape buffer adjacent to the LAMIRD boundaries. The buffer should be designed to preserve native vegetation and existing trees of three-inch caliper or larger; and
- b) New uses may shall be limited to primarily to include those uses similar to and otherwise allowed in NB and CB zones, and should be compatible with existing uses, that existed on July 1, 1990, and which serve the local rural population.

~~LU 6.I.7 In addition to the provisions of policy LU 6.I.6, the new CRC designation between the intersections of 172nd/SR 9 and 168th/SR 9 shall be implemented through zoning and development standards which reduce impacts adjacent to rural residential areas, protect rural character and limit development intensity with additional landscape areas and by restricting building size, height, and setback; the size and location of uses; and the areas of impervious surfaces.~~

LU 6.I.8 Development within the CRC designation shall be limited to development that can be supported by services typically delivered at rural levels of service. These services may include water, septic systems, and transportation facilities.

Amend the second paragraph, last sentence of the second column on page LU-65 to read:

Clearview Rural Commercial (CRC). This designation includes commercial uses and areas located around three SR-9 intersections in the Clearview area which have historically provided goods and services to the rural population and a larger service area. Commercial designations at these intersections are limited areas of more intensive rural development within which infill, limited new development and redevelopment of commercial uses is permitted. The boundaries of the Clearview Rural Commercial designation are delineated on the Future Land Use Map. This designation generally allows for neighborhood, community, and rural commercial uses including but not limited to small grocery stores, restaurants, service stations, hardware stores and nurseries to serve the needs of the rural population; ~~and tourist-oriented development such as art galleries, antique stores, and lodging facilities.~~ The implementing zone within the Clearview Rural Commercial designation is the Clearview Rural Commercial zone.



CLEARVIEW LAMIRD* DESIGNATIONS ADOPTED FUTURE LAND USE

- Rural Residential (1DU/5 Acres Basic)
- Clearview Rural Commercial (95.7 Acres)

- Proposed Clearview LAMIRD* Boundary (95.7 Acres does not include 19.7 Acres ROW or Easement or 5.0 Acres Rural-5 Unchanged)
- ILR Parcel Line
- Section Line

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Produced by the Snohomish County Department of Planning and Development Services, GIS/Cartography, Inc.

DECEMBER 2001

*LAMIRD - Limited Area of More Intensive Rural Development

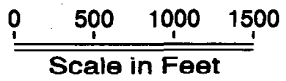


EXHIBIT B:
Adopted by County Council Feb. 6, 2002
Amended Ordinance 01-131

