

**Minority Report
To
Board of County Commissioners**

February 6, 2002

Re: Proposed Unified Development Code Amendments Supporting the Brinnon Sub Area Plan

File Number: Submitted

Planning Commissioners: Todd McGuire and David Whipple

Background and Rationale:

These amendments were submitted to insure better consistency between the Brinnon Sub Area Plan and the county's Comprehensive Plan. Essentially, there are two elements to the amendment. They are the development of Remote Rural Planning Areas and Small-Scale Recreation and Tourist overlay districts. However, even though these amendments were submitted to promote consistency with the CP, they will affect the entire county and need to be in the best interests of the entire county.

The Remote Rural Planning Areas (RRPA) concept came about because of a desire from the members of the BSAPG to have their geographic region given the same cottage and home based industries exemptions as those of the West End area. Because they are located as far from Port Townsend as the West End is from Forks, it was decided that this made Brinnon (under a very limited criteria) as remote as the West End and in need of the same considerations. This criteria did not consider Brinnon's proximity to other UGA's (Poulsbo, Kingston, Shelton) within the same distance as the West End to Port Townsend or the multiple RVC, MPR, and Light Industrial areas closer to Brinnon. The particular regulations to be exempted include limits on numbers of nonresident employees, limits on retail sales, limits on hours of operations, and the unlimited ability to expand without need to relocate to a commercial area. Essentially, the proposal asks that any operation that meets the use suggested (not prescriptive) in the use table be able to operate at all hours, act as a retail outlet, employ as many people as needed (with no parking provisions), etc. The proposal asks to allow cottage and home-based industries to be cited at non-residential settings. There is even a provision to allow operations to exist in settings where there is not a primary resident present. The main reason for the inclusion of a resident requirement is to insure that the operations and areas remain residential in nature.

This amendment is not the intent of Cottage or Home-Based activities according to the definitions of these operations in the Jefferson Co. Plan:

Cottage Industry:

1. An accessory use within a single-family dwelling or building accessory to a dwelling and is wholly incidental and subordinate to the residential use of the property.
2. Limited, small scale commercial or industrial activity, including fabrication, and that can be conducted without substantial adverse impact on the residential environment in the vicinity. Some examples include: dressmaking, baking, weaving, carpentry, cosmetic sales, and sculpting. (p.G-4)

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Home Occupations:

Home based business that are secondary and incidental to the primary residential use of the structure, provide supplemental income for a family, consist of limited-scale service or fabrication, and are limited to mail order and phone sales with off-site delivery. (p.G-8)

In other sections, specific limits are placed on employees, activities, hours of operation, etc. While these may be expanded, as the letter from the state DCD office stated, there needs to be some limit. Otherwise, all rural residential areas are potential commercial areas merely waiting to be ultimately developed. There needs to a reasonable limit to size, activities, number of employees, etc. where a successful cottage/home industry would be expected to move into one of the official commercial zones. It is important to remember that these areas are primarily Rural Residential zones, not less expensive commercial sites. It is the goal of GMA and the CP to focus commercial growth in identified areas, not to legitimize sprawl.

The county states that there should be no undue influence, noise, fumes, etc. It then places the burden on the plaintiff to show that they are being negatively impacted. The county does not have the staff to enforce its own stormwater, saltwater intrusion, or other regulations. It is very doubtful that they will be able to help neighborhood homeowners protecting their property rights against a large, aggressive commercial enterprise that has been allowed to grow in their own neighborhood. The county was unable to resolve a simple noise issue regarding a proposed Airport Overlay Zone because of a difficulty in monitoring. Monitoring these issues will be much more complex.

The SRT Overlay District is an idea that has some merit. It is brought up at this time because it fits into the BSAPG desire to allow development at Wa Wa Pt. The largest problems with this are the environmental review and protections that may be required and that the plan is not consistent with the current county definition of the built environment. For this reason including it specifically in 3.6.14 is problematic. Additionally, is this designation to be applicable countywide? If so, what are the criteria or uses allowed? Wa Wa Pt. should not have been singled out. There is still quite some question as to it even being able to be developed. There certainly could be other suitable areas in the county for this designation.

Eliminating certain rural based uses (all terrain vehicles, shooting ranges, recreational activities) seems very drastic. They would be a major draw to developing other SRT areas. Unless this change is to be only Wa Wa Pt specific, it does not make sense prohibit these in other areas. This entire section should be revised and looked at in light of what is good for the entire county, not just what will implement a Brinnon Sub Area Plan. This after all is the entire county's Unified Development Code.

Finally, criteria for what would make a suitable SRT area in other sections of the county would be helpful. This could give future guidance and allow decision making to be made in a fair and thought out manner.

Findings of Fact:

1. There are no set criteria for what establishes an area as a Remote Rural Planning Area.

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2. Forks is 1/3 the size of Shelton, Kingston, Poulsbo, or Port Townsend and Brinnon is as close to each of these areas as the West End is to Forks. The county is presently working on making Port Hadlock a UGA and there are multiple other commercial areas closer to Brinnon than these UGA areas. The use of Port Townsend distance from Brinnon compared to Forks distance to the West End was chosen merely to meet this planning goal. It is not based on access to service, goods, or employment opportunities (most people in the West End access Aberdeen for these). Four agencies provide homecare service in Brinnon (none in the West End), Brinnon students can attend high schools 12, 27, or 39 miles away (West End students only 41 miles), multiple high level medical service providers can be accessed within 2 hours of Brinnon (one for the West End). Over 250,000 people live within 40 miles of Brinnon (possibly 30,000 within 40 miles of the West End).
3. There is no established limit to the size that a cottage industry or home based industry could become once established in a Remote Rural Planning Area. DCD recommended that there be some limit set.
4. There is no mechanism in place to resolve disputes arising from residential and commercial uses in conflict in RRPA's. Infact, the county does not even establish a mechanism for recording baseline measurements of any possible disruptive agents.
5. The county is currently unable to meet many of the present enforcement issues regarding land use. There is currently a backlog of over 100 enforcement cases waiting to be resolved.
6. The term built environment has not been amended in Jefferson County since the adoption of the 1997 CP. SRT Overlay Districts are still subject to the requirements of the GMA and the CP. The Wa Wa Pt property does not meet the CP definition of "built environment".
7. Having non-resident properties used as cottage/home based industry sites would be in violation of the intent of the CP regarding these activities.
8. Wa Wa Pt is the only possible SRT location described in the amendment.

Recommendations:

As written, we the minority urge the BOCC to reject the RRPA and SRT Overlay District UDC amendments, as written. We encourage the BOCC to make the following changes when considering this amendment.

1. Revisit the proposed UDC amendments only after revising the Brinnon SAP in accordance with recommendations made in the minority report on the SAP.
2. Word the 3.6.14 section so that it is not area specific.
3. Develop criteria for what enables an area to be declared an RRPA.
4. Set limits for employees, hours of operations, size, vehicle trips, etc., for cottage and home based industries exempted in RRPA's.
5. Require that cottage industries and home-based industries in RRPA's have onsite residents.

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6. Develop county resources to test for noise, vibrations, odors, etc. and have staff available to resolve disputes arising from such situations. These disputes should be resolved at the expense of the commercial operation.
7. Delete 3.6.14.c(2). Allow other uses in future SRT areas than overnight cabins and a restaurant.
8. Acknowledge publicly that Brinnon is not as remote as the West End and there is a difference in the way the county should provide service to the two areas.

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