

Kate Koch - Fwd: Comments on DEIS - e-mailed at 1:04 pm on June 22, 2009

From: David Stalheim
To: Kate Koch; Lisa Grueter; Matt Aamot
Date: 6/22/2009 5:15 PM
Subject: Fwd: Comments on DEIS - e-mailed at 1:04 pm on June 22, 2009
Attachments: Letter to Whatcom County - Wilson and Kilkelly.doc

>>> PDS 6/22/2009 3:12 PM >>>

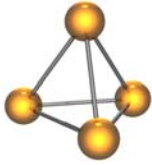
>>> <k.cordi@comcast.net> 6/22/2009 1:09 PM >>>
Mr. Stalheim,

Please consider the attached comments as you continue with the SEPA and legislative processes related to the Whatcom 2031 project and UGA evaluations.

As stated in the DEIS cover letter, comments are due by 4:30 pm on June 22nd. This e-mail is being sent at 1:04 pm on June 22nd. I would appreciate confirmation that the comment letter was received prior to the public comment period deadline. A signed hardcopy of this letter has been dropped in the mail.

Thank you.

Jeff Tate, Partner
Polymer Land Consultants



Polymer Land Consultants

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June 21, 2009

Whatcom County Planning & Development Services

Attn: SEPA Responsible Official

David Stalheim, Director

5280 Northwest Drive

Bellingham, WA 98226

RE: Whatcom 2031 DEIS – Blaine UGA – Comment Letter

Parcel 400117-072423-0000 (58 acres)

Parcel 400117-034302-0000 (11 acres)

Parcel 400118-507416-0000 (5 acres)

Parcel 400118-515386-0000 (8.1 acres)

Mr. Stalheim,

The Kilkelly/Wilson family appreciates the opportunity to provide Whatcom County with comments on the Whatcom 2031 DEIS. The County and its cities face a vast undertaking in developing policies that guide growth over the next 20 years. Polymer Land Consultants submits this letter on behalf of the Kilkelly/Wilson family. Our comments are intended to be supportive of smart growth polices and constructive as they relate to our property.

The Kilkelly/Wilson properties comprise approximately 82 acres and are located within the current Blaine UGA. They are zoned UR(4), are located within the service area of the Birch Bay Water and Sewer District, and are classified as a Short Term Planning Area (STPA). This land has been in the family's ownership since 1959. 2009 marks the 50th year in which they have paid property taxes to Whatcom County.

We have had the opportunity to review the DEIS and the supporting documents. We respectfully request that the SEPA responsible official, appropriate Planning Commissioners and the elected officials consider the following information as the County and cities move through the process of determining future growth alternatives.

1. The scope of the DEIS should include the specific proposals for modifying the UGA boundaries.

The DEIS consists of an exploration of four different alternatives for growth along with some general descriptions of land capacity within each of the UGA's. The DEIS does not make any specific recommendation for which alternative should be used, nor does it include any specific recommendations regarding changes to UGA boundaries. In the middle of the comment period for the DEIS, the City of Blaine (and others) provided recommendations for the alternatives to

be chosen and how the UGA boundary should change. This has made it confusing as to how to best provide comment and what the focus of the comments should be. It is clear to us that the DEIS was issued too early in the planning process.

The environmental review process should be comprehensive and include any and all potential map changes. Excluding the proposed UGA boundary changes in the DEIS compromises the ability of landowners and the public to understand the breadth of the proposal and the extent of potential environmental impacts and/or benefits. Because the city recommendations were submitted in the middle of the DEIS comment period this letter includes comments on the DEIS as well as the city's recommendations. When a clear proposed action is determined, we ask that a new DEIS be published.

2. The maps used in the decision making process need to be as accurate as possible because they are being used to determine where to make UGA boundary adjustments.

The DEIS includes a number of maps that depict environmental information. The maps are being used in the decision making process for determining the UGA boundaries that will support the 2031 population projections. Page 3-12 of the DEIS includes comments and suggested options for making decisions on the Blaine UGA. It is apparent that the County is suggesting to reduce the UGA where there are critical area concentrations, where there are areas with moderate to high conservation value, and where land is located within a sensitive watershed. Maps are provided for each of these criteria (Figures 3-4, 3-14, and 3-24 respectively). Since the decision making process appears to be relying heavily upon these maps it is imperative that the maps are accurate. For the Kilkelly/Wilson properties they are not.

Wetlands

In evaluating the maps on the Whatcom County website for critical areas and the maps available at the City of Blaine, it appears that each jurisdiction is utilizing maps that are based on different sources. The map of wetlands shown on the County website, and the critical areas shown in Figure 3-4 are different than those shown on the City of Blaine wetlands map.¹ While Figure 3-4 is difficult to interpret, it is apparent to us that the City of Blaine wetland maps more closely reflect the actual wetland features that are located on our property. These maps need to be harmonized before any decisions are made. While we understand that the map shown in Figure 3-4 represents all critical areas, we are assuming that the polygons represent wetlands only since there are no other critical areas on the property.

Biodiversity

¹ County DEIS map shown at Figure 3-4.

City of Blaine wetland map: <http://www.ci.blaine.wa.us/DocumentView.aspx?DID=699>

County web page map:

http://www.co.whatcom.wa.us/pds/pdf/planning/caomaps/posters/cao_wetlands_2006_34x44_final_reduced.pdf

To the extent that wetland information has been used in the creation of the Biodiversity map (Figure 3-14), the conservation values for our property should be based on the more accurate City of Blaine map.

We understand the Biodiversity map is a product of the report “Mapping Whatcom County’s Biodiversity, Data and Methods” prepared by Conservation Northwest. This report provides an overview and attempts to categorize ecological integrity based on numerous environmental, social and political factors. The report is replete with statements that explain how it should be used and the various data gaps, limitations, and assumptions that are incorporated into any final conclusions. Clearly the authors of this report did not intend for it to be used to make parcel specific conclusions in determining the specific boundaries of the UGA.

We do not take any exception with this ambitious effort to analyze biodiversity and ecological integrity in Whatcom County, in fact, we applaud such an effort. We feel however, that the Biodiversity map only provides a low resolution characterization of a large area and it should not be used to make high resolution, parcel specific decisions. We question the ability of such a characterization to fully support decisions of which parcels should be included or removed from a future UGA.

The Biodiversity map and the specific features identified on the map have not been field verified and are therefore subject to misinterpretation especially as it applies to individual parcels. The Biodiversity Map should not be used to determine which parcels are removed from the UGA based on a medium to high conservation value. As described under comment #4 our property is not dominated by mature forest, does not contain unique vegetative communities, and does not provide unique aquatic or terrestrial ecosystems. Our property is characterized by large alder stands, suggesting large tracts of immature forest, shallow depressions and seasonally saturated soils. We believe the conservation value that is applied to our property on Figure 3-14 is inaccurate.

3. Protecting sensitive watersheds and allowing development are not mutually exclusive. The County and City of Blaine should work together to develop land use regulations that encourage sustainable development and development that adequately protects surface water quality and quantity. Downzoning land is not the only option.

Figure 3-24 identifies the Drayton Harbor watershed as sensitive. We do not dispute this classification. We recognize that it is listed on Ecology’s 303(d) list and that it is imperative that future development and land use actions in this watershed be carried out in a manner that ensures no further degradation to water quality/quantity occurs. With that said, there are many innovative ways of approaching water quality/quantity issues. We are supportive of such responsible techniques and believe that they should be incorporated into future land use regulations. However, the family’s decision over the last 50 years to not engage in practices that compromise the water quality conditions of Drayton Harbor should not now be used against them.

We believe that the County and City can approach this issue through the adoption and implementation of ordinances that require or incentivize low impact development practices and

other development practices that have proven themselves as capable of protecting water quality/quantity. We do not believe that the only alternative available to the County and City is the drastic step of downzoning. While reducing the current allowed density of 4 houses per acre may be appropriate in some areas, we urge the County and City to establish standards that allow landowners to achieve density through clustering, use of low impact development techniques, and designation of open space that is properly coordinated with adjacent properties. We believe that development and resource protection can occur together, and effectively, if appropriate, site sensitive development practices are considered as part of the regulation.

4. The wetlands and habitat located on the subject properties are not unique in Western Washington.

Our property consists of second growth Alder forest. There are a few small areas containing stands of Douglas fir and sparsely distributed Western Red Cedar, but the forest is primarily a large contiguous stand of Alder. The understory consists of Salal, Salmonberry, nettles, and Sword Fern. The site is relatively flat with wetlands that meander through the property. The wetlands are connected to a watercourse that drains to Drayton Harbor via an underground culvert that extends across several hundred feet from Highway 548 to the harbor. The wetlands consist primarily of shallow depressions that are vegetated with pacific silverweed, creeping buttercup, alder, and salmonberry.

The vegetation, hydrology and soil composition that are located within the wetlands and that surround the wetlands are very common in Whatcom County and Western Washington. Additionally, the wetlands and uplands contain wildlife functions and values that are common in Whatcom County and Western Washington. In other words, the property does not contain any unique terrestrial ecosystem, unique aquatic systems, or exceptionally high value functions. With that said, because of the property's proximity to Drayton Harbor, we recognize that for whatever development that may occur on this property in the future, special attention to managing surface water quantity and quality should be considered. However, we feel that any potential impacts to Drayton Harbor can be easily managed through accepted development techniques. It is not necessary to remove the properties from the UGA

5. Alternative Y is the most appropriate alternative.

The DEIS is clear in its conclusion that the Blaine UGA is larger than necessary to accommodate the 2031 population projection. This conclusion is the same for all four alternatives. On June 8th the City of Blaine transmitted a resolution and suggested revisions to the UGA in support of Alternative Y. We support Alternative Y with Blaine's additional suggestion for increasing their population allocation (see comment #10 below).

6. The land capacity analysis does not explain how wetlands were fully considered in the final conclusions.

While section 3.2 of the methodology for the land capacity analysis indicates that the County's wetland datasets include only 50% to 75% of the actual wetlands in the County, the analysis does not indicate how this gap is addressed. Failure to account for the unmapped wetlands

underestimates that acreage needed to accommodate the population allocation. Since the DEIS partially bases its alternatives on the land capacity analysis, its conclusions result in a less accurate outcome.

7. The land capacity analysis does not indicate the reduction factor that is used for rights-of-way and infrastructure within the Blaine UGA.

In describing deductions for future infrastructure, Section 3.4 of the methodology for the land capacity analysis refers the reader to section 4.1. Section 4.1 only states that infrastructure deductions should occur for each zone within each UGA. The report does not indicate the outcome of that analysis for any of the UGAs. This information should be available for review and comment.

8. The land capacity analysis includes the methodology and the results of how it was applied, but it does not show how the methodology is applied to each UGA.

The analysis shows the variables used in this complex equation and the summation once the data was plugged into each variable, but it does not show the actual data. This limits our ability to comment on the actual infrastructure reduction factors that were used in the Blaine UGA or the acreage reductions used for critical areas. We are also unclear what market factors that are being used for Blaine. The methodology indicates that a 15% market factor is used for vacant land and a 25% market factor is used for partially used and underutilized land. The methodology does not describe why different market factors were used for different types of land. While the County has the authority to choose an appropriate market factor for a UGA, it is our opinion that the 25% market factor is the more appropriate factor to apply to vacant lands. This opinion is based on the fact that 100% of critical areas are not mapped and therefore not fully deducted when determining availability of land. The analysis also states that the market factors need to be adjusted for each UGA. The City of Blaine's resolution does not indicate whether they support these market factors or if they need further refinement, nor does the DEIS provide any indication of the different market factors that are proposed for each of the UGAs.

9. The land capacity analysis for Blaine needs to be recalculated.

Several factors require that the County's analysis for Blaine be recalculated. Those factors include:

- Since the City of Blaine's recommendation was submitted after the DEIS was released, it is obvious that the land capacity analysis needs to be recalculated to incorporate the City's suggestion that 200 acres of the east UGA be classified as manufacturing along with 60 acres that is shown as public (Blaine Athletic Field).
- The City of Blaine is recommending that the population allocation be increased from 3,720 to 4,700. We generally support this recommendation for reasons outlined in comment #10 but it will require recalculating the analysis.
- Wetland reduction factors are incomplete which results in an underestimate of net acreage needed to accommodate the population allocation.

10. The population projections for Birch Bay and the UGA boundary should be reduced and the City of Blaine's projections and UGA be given precedence.

A broader concern to us is that the County is providing preference in directing growth to the Birch Bay UGA over the Blaine UGA. Birch Bay is an unincorporated UGA while Blaine is a municipal UGA. We agree with the City of Blaine's statement that "an incorporated 'city' (UGA) like Blaine, with a functioning municipal government, which is fully invested in urban infrastructure and urban services, is the more appropriate location to allocate growth and should be given precedence over the unincorporated UGAs and rural areas of unincorporated Whatcom County."² We further agree with the city's recommendation to reallocate some of the growth that is currently projected for Birch Bay to the Blaine UGA.

The Growth Management Act clearly indicates that "urban growth should be located first in areas already characterized by urban growth that have adequate existing public facility and service capacities to serve such development."³ Additionally, the GMA states that "[i]n general, cities are the units of local government most appropriate to provide urban governmental services" and that "[i]n general, it is not appropriate that urban governmental services be extended or expanded in rural areas except in those limited circumstances shown to be necessary to protect basic public health and safety..."⁴ Map 3-43 of the DEIS shows the lot pattern for the Birch Bay UGA which clearly indicates that the majority of land within this UGA is comprised of lots that are 5 acres and larger. Map 3-23 shows that the Birch Bay UGA is located within a sensitive watershed. Map 3-13 shows that there are numerous areas of the Birch Bay UGA that are classified as medium to high conservation value.

It is unclear to us why the County would not be opting to dramatically reduce the Birch Bay UGA in favor of directing growth to the Blaine UGA when most of Birch Bay is characterized by a rural lot pattern, located within a sensitive watershed that is mapped as having medium to high conservation value. We feel Blaine is a city that is capable, and most appropriate, to provide urban governmental services.

11. While we generally agree with many of the conclusions in the City's Resolution No. 1520-09, we believe that the County should not accept portions of the recommendation.

The City has suggested in their June 8, 2009 Resolution (No. 1520-09) that the UGA should be reduced. The Resolution includes a map that shows the northeastern and southwestern areas remaining in the UGA and the south/south central areas being designated as Interurban Conservancy Area.

Further consideration must be given to this element of the recommendation before the County accepts it. The City clearly acknowledges that the 725 acres they would like to have remain in the UGA in the southwest cannot be justified based on the capacity analysis performed by the

² Page 1 of Exhibit A of Resolution No. 1520-09

³ RCW 36.70A.110(3)

⁴ RCW 36.70A.110(4)

County. We question the land capacity analysis and believe that it has underestimated the acreage needed to accommodate future population. If the UGA is going to be modified in size, the degree to which it is modified should be based on the degree to which population projections are changing and the amount of land needed to accommodate such a population.

12. We request that the County not accept the City of Blaine's recommendation to remove our property from the UGA.

This property is currently located in the Short Term Planning Area of the Blaine UGA. It contains a number of attributes that suggest it should remain in the UGA. Those attributes are:

- Included in the Birch Bay Water and Sewer District and service area.
- Ability of the Birch Bay Water and Sewer District to serve this site based on their capital plans and planned improvements.
- Adjacent to Highway 548.
- Relatively flat forested land with ample opportunity for a mix of residential uses and open space.
- It is a large tract of land with significant development potential. This supports an ability to significantly contribute to the cost of extending urban services in a cost effective manner thus allowing housing prices to remain lower.
- The property is surrounded by an urban lot size pattern. Figure 3-44 shows a lot pattern to the south of lots that are smaller than .5 acre, to the east is a golf course, to the west the lots are 2 acres and smaller, and to the north the lots are primarily 1 acre and smaller. At the same time, there are numerous large parcels proposed to remain in the Birch Bay UGA that are completely surrounded by other large parcels.

Additional factors that are unique to this property and must be considered are:

- The property does not exhibit any special environmental resources, features, habitat or ecosystems that are not commonly found throughout all of Whatcom County and Western Washington. The wetlands that are present can remain protected through proper and traditional critical area regulation and Drayton Harbor can be protected through appropriate and accepted water quality and quantity management strategies.
- The land has been in the UGA for many years. Over the last 50 years many decisions and assumptions have been made that have relied upon it remaining in the UGA. Even though it has been in the UGA for so many years, for the last 50 years the family has chosen not to develop the land. They have received offers and interest in developing the land but continue the care and commitment of managing and using the land responsibly. The family has exhibited a strong ethic in caring for the land and has continued to pay property taxes on the land during this long span of time. Fair treatment by the County and City is essential when making decisions that could affect future land use potential.
- It is obvious to us that the property is being considered for removal from the UGA primarily because there are trees present. As stated above, the forest is a second or third growth immature forest. While there is no intention to remove the trees at this time, the Department of Natural Resource rules allow for relatively easy approval to remove trees by either selectively harvesting or clear cutting the property. In spite of this, the family has

chosen not to take this action, however it is our opinion that their decision to leave the trees in place is now being used as the basis for a potentially dramatic downzone. This potential downzone will dramatically impact the value of the land which puts the family in a position of compensation for that loss.

For the detailed reasons cited above, we believe that the following items best summarize our review of the DEIS and City of Blaine Resolution No. 1520-09:

- The maps that are being utilized to determine UGA boundaries and drive other policy decisions are not accurate. The maps underestimate the amount of critical areas which results in flawed conclusions of the DEIS and land capacity analysis. The maps do not accurately identify the location of the features they intend to depict which leads to errors in determining where to expand or retract UGA boundaries.
- The land capacity analysis is incorrect and therefore there is no basis to reach a UGA decision. The land capacity analysis does not describe how the gap in mapped wetland data has been addressed; it does not include a reference to the reduction factor that has been used for rights-of-way and infrastructure; and it does not show how the methodology has been applied for each individual UGA. Additionally, if the City of Blaine recommendation is accepted, it must be significantly recalculated to reflect the additional population allocation, the addition of 725 acres of undeveloped land to the west, and the designation of 200 acres of manufacturing land and 60 acres of public property.
- If the goal is to protect Drayton Harbor, that can be accomplished through techniques other than downzoning. Potential impacts to water quality and quantity can be addressed through a wide range of proven and accepted low impact development methods, retention/detention infrastructure, and adequate retention of vegetation.
- Blaine, not Birch Bay, should be the preferred UGA location. The GMA is clear with respect to this matter. Furthermore, the existing development pattern in Birch Bay is far more rural and dispersed than Blaine.
- The DEIS fails to identify a preferred alternative so public comment is difficult. It is further complicated by the City proposals that were submitted in the middle of the comment period. A DEIS should include a conclusion that indicates the preferred alternative.

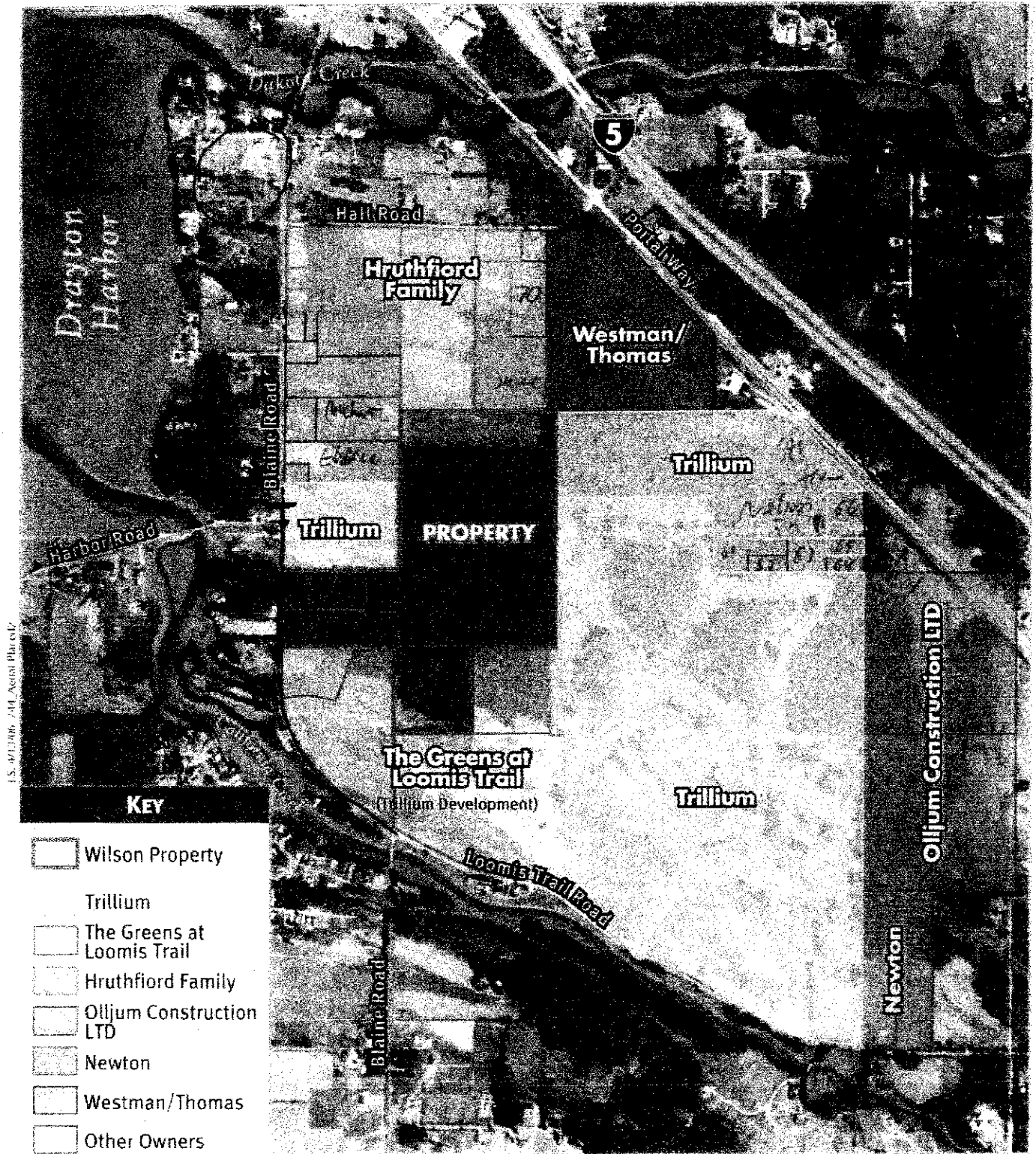
Once again, we thank you for this opportunity to provide comments to the County and cities. We appreciate the effort and complexity of this endeavor and hope that you will give consideration to our comments.

If you are to have any questions, please do not hesitate to contact me at 425-377-5012.

Sincerely,

Jeff Tate, Partner
Polymer Land Consultants, LLC

WILSON PROPERTY - BLAINE, WA NEIGHBORING OWNERSHIPS AERIAL



ES: 4/11/06 7:41 Aerial Photo

KEY

- Wilson Property
- Trillium
- The Greens at Loomis Trail
- Hruthfiord Family
- Olljum Construction LTD
- Newton
- Westman/Thomas
- Other Owners

Aerial ©2006 Google, ©2006 DigitalGlobe

HEARTLAND

