

September 14, 2009

**SIMI JAIN**, Attorney  
sjain@zenderthurston.com

Whatcom County Council  
311 Grand Avenue, Suite 105  
Bellingham, Washington 98225

Whatcom County Planning Commission  
5280 Northwest Drive  
Bellingham, WA 98226

*Re: Matichuk Comment to Whatcom County Executive Recommendation for Bellingham's Urban Growth Area for September 17, 2009 Joint Planning Commission and Council Public Hearing*

Dear Council members and Planning Commissioners,

This submission is in response to the Whatcom County Executive's Recommendation for Urban Growth Areas dated August 17, 2009.

### **1. Executive's Recommendation**

Mr. Matichuk requests that the Whatcom County Planning Commission and the Whatcom County Council reject the County Executive's Recommendation for the City of Bellingham's urban growth area in the Geneva area. The County Executive recommends removing the entire Geneva area from Bellingham's UGA. *Executive Recommendation, Map UGA-1*

The County Executive ignored Bellingham's recommendation and proposed the following:

*Executive Recommendation:* There are two changes to the request from the City of Bellingham: 1) remove areas designated for urban growth in the Lake Whatcom and Lake Padden watersheds and 2) request that the city develop a proposal to demonstrate how it will accommodate an additional population allocation.

This recommendation is inconsistent with the Growth Management Act (GMA). Under the GMA,

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,

RCW 36.70A.110(3). The Geneva area already contains urban development and urban services already exist in that area. Indeed, Mr. Matichuk's property has urban level services. The County's Draft Environmental Impact Statement (DEIS) identified two options for Bellingham's UGA for parcels within sensitive watersheds: (1) where not fully developed, consider UGA boundary changes to protect remaining undeveloped areas; and (2) In developing/redeveloping areas, implement watershed protection and low impact development measures. DEIS, p. 3-4. The DEIS does not recommend removing an area mostly developed in the watershed from Bellingham's UGA.

The Executive's recommendation is not consistent with Bellingham's proposal, the County's DEIS or Mr. Matichuk's request and should be rejected.

## **2. Mr. Matichuk's request**

Mr. Matichuk's request is consistent with the environmental analysis contained in the DEIS. Mr. Matichuk requested that the County fix a mistake made in 2008 when it adopted the Bellingham UGA for the Geneva area. The mistake was the exclusion of already urban sized and mostly developed parcels in the south half of Block 13, Plat of South Geneva, owned by Mr. Matichuk. As previously explained, between the time of completion of the Residential Land Use and Inventory Analysis in 2002, and by the time new Bellingham UGA was adopted in February 2008, substantial development had occurred to these lots in the south half of Block 3 and they were no longer underutilized. These lots are now held by a number of different owners and almost every lot contains a residence. So the supporting data of an undeveloped south half Block 3 was not accurate when the UGA was adopted. The new UGA line should have been drawn to reflect existing development at the time of adoption in 2008, instead of reflecting development as it existed in 2002.

## **3. Reaction to Mr. Matichuk's request**

You may recall that the County Council chose not to consider Mr. Matichuk's request for its 2009 docket primarily because the County was reviewing its UGA. In addition, County Council members made it known that they were interested in Bellingham's views on Mr. Matichuk's request and the results of the DEIS. The Bellingham Planning Commission recommended that Mr. Matichuk's request be studied to correct the mistake. *Memorandum from Greg Aucutt to City Council, May 7, 2009.*

The Bellingham City Council requested that the County create no additional urban lots in the Lake Whatcom Watershed. *Council Meeting 05.18.09.* Bellingham's UGA proposal includes keeping the current growth allocation and the current UGA boundaries. *See Executive Recommendation.*

## **4. Conclusion**

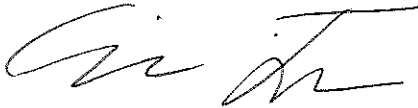
The addition of Mr. Matichuk's property (already urban in size with urban level services) in the Geneva area will not have a significant effect on the Lake Whatcom Watershed. We urge the

September 14, 2009  
Page 3

---

rejection of the Executive's Recommendation for Bellingham's UGA in the Geneva area and the inclusion of the Matichuk property (Lots 13-24 Block 3, Plat of South Geneva on Lake Whatcom) into the Geneva UGA.

Very truly yours,

A handwritten signature in black ink, appearing to read "Simi Jain". The signature is fluid and cursive, with the first name "Simi" written in a larger, more prominent script than the last name "Jain".

Simi Jain

c. client