

## Kate Blystone - Fwd: Bellingham UGAs

---

**From:** PDS  
**To:** David Stalheim; Kate Blystone  
**Date:** 10/20/2009 8:22 AM  
**Subject:** Fwd: Bellingham UGAs

---

>>> "Wendy Harris" <w.harris2007@comcast.net> 10/19/2009 10:54 PM >>>

To: County Council  
From: Wendy Harris  
Date: 10.19.09  
Re: Bellingham's Geneva and Hillsdale UGAs

### Reduced Residential Density Supports Rural Zoning

I am responding to Rebecca Craven's 10.18.09 memoranda regarding Lake Whatcom UGAs. I agree that case law, including Futurewise v. Whatcom County and Gold Star Resorts, Inc., and best available science, indicate that reduced residential density is appropriate within the Lake Whatcom watershed due to its environmental sensitivity. However, there is no legal precedent for the County Planning Commission's recommendation to retain the watershed UGAs while amending the Comprehensive Plan to prohibit urban level growth.

The relevant issue of UGA designation is distinct from the issue of urban density. Determination that an area should be zoned for urban growth logically precedes determination of the level of allowable urban density. Attempting to analyze whether non-urban zoning may be allowed in the Lake Whatcom watershed based on environmental concerns inappropriately assumes that the existing UGA boundaries are appropriate. This is not the case.

Currently, the County is engaged in a mandated Comprehensive Plan review and update to determine whether changed circumstances warrant zoning revisions. Since the County last reviewed its UGA designations, great progress has been made in our scientific understanding of watershed processes. Recently, the TMDL Water Quality Study Findings affirmed the causal connection between watershed development and water quality degradation. This updated scientific information, reviewed in the context of a County Comprehensive Plan review process, and the goals of the GMA, indicates that the County should remove Geneva and Hillsdale from UGAs and rezone these areas for rural residential development.

The basic principles of the Abernroth and Achen cases have not been refuted. An area should not be designated as a UGA unless urban growth is desired, regardless of whether the area is already developed, or if it has previously

designated as a UGA. Abenroth v. Skagit County, WWGMHB, 97-2-0060, (Final Order and Decision, January 23, 1998). Achen v. Clark County, WWGMHB, 95-2-0067, (Final Decision and Order, September 20, 1995). See also, Alpine/Bremerton, CPSGMHB, 98-3-0032c/95-3-0032c, (Order Rescinding Invalidity in Bremerton and Final Decision and Order in Alpine, February 8, 1999). (The Wells case does have a complicated and confusing legal history, but resulted in a remand to the WWGMHB, which, I believe, did not reverse the principles cited above.)

The Futurewise v. Whatcom case did not challenge the Lake Whatcom watershed UGA designation and thus, can not be viewed as authority for this issue. The case addressed whether existing urban growth areas had appropriate residential density. It is instructive only for the determination that UR3 density is allowed in the watershed UGAs, an issue conceded by Futurewise on brief. Nor do other cases cited in the 10.18.09 memo address the UGA designation issue as opposed to the urban density issue.

Finally, the issue of government transformation remains unresolved. While today the City of Bellingham voted to initiate the annexation process for a "small component of the larger Geneva UGA", the initiation fails to include most of Geneva, or any of Hillsdale, and can not predict whether the annexation request will be successful. Moreover, the timing of this initiation is questionable, since the County Council has not yet determined whether Geneva should even retain its UGA status.

For the above reasons, the County Council should remove Hillsdale and Geneva from UGAs and initiate a watershed based restoration plan for Lake Whatcom that implements the recommendations from the EPA's recently issued Handbook for Developing Watershed Plans to Restore and Protect Our Waters, at [http://www.epa.gov/owow/nps/watershed\\_handbook/#contents](http://www.epa.gov/owow/nps/watershed_handbook/#contents) .

Sincerely,

Wendy Harris  
Bellingham Resident