



# COMMUNITY DEVELOPMENT DEPARTMENT

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October 23, 2009

To: Whatcom County Council

RE: City of Ferndale UGA Proposal

DISTRIBUTED TO

OCT 23 2009

ALL COUNCIL MEMBERS  
WHATCOM COUNTY COUNCIL

Dear Whatcom County Council Members,

The City of Ferndale is pleased to present you with the City of Ferndale UGA Proposal, as well as a preliminary response to the questions developed by the County Council in preparation for the October 27 hearing. The attached documents are lengthy, and we understand that the scope of your review is not limited to Ferndale. Still, we believe that these documents demonstrate that Ferndale's proposal is appropriate, justified, and represents a good-faith effort to plan for the future of our shared community.

The attached documents are the culmination of the work associated with the Whatcom 2031 process. We believe that the documents are fair, forward-thinking, and grounded in verifiable data. I encourage you to put aside any preconceived notions you may have for or against Ferndale's proposal, and read both documents with an open mind.

Even though we made the effort, it was unfortunate Ferndale was not allowed to provide the Planning Commission with this information prior to the closure of that body's public hearing. Thus, the Whatcom County Council is being provided information which we believe puts the argument into the proper context with back-up documentation.

Ferndale staff and elected officials will be available to respond to any questions the County Council may have at the October 27<sup>th</sup> meeting. We look forward to discussing these documents and the City of Ferndale's proposal at that time. Thank you for your consideration.

Sincerely,

Dennis D. Rhodes

Community Development Director

Att: Response to County Council Questions  
City of Ferndale UGA Proposal

CC: Ferndale City Council  
Ferndale Planning Commission

## Ferndale Responses to Whatcom County Council Questions

Note: The City of Ferndale has made reference to the Ferndale UGA Proposal and the exhibits contained therein. Ferndale recommends that the County Council review the proposal in its entirety prior to making a final decision on the UGA process. Whatcom County questions are shown in bold typeface, below:

1. **Land Capacity.** The city's 2005 Buildable Lands Inventory showed that the 20-year supply of potential dwelling units at 5,697 is nearly twice the populations "demand" for dwelling units over that same 20-years. The city has proposed using different assumptions and methodologies for determining land capacity than approved by the Growth Management Coordinating Council and County Council. Questions:
  - a. **Why are the conclusions of the city's land capacity analysis done in 2005 not similar to the results that Whatcom County has produced?**

The City does not propose utilizing a separate methodology from that discussed by the GMCC and Council (See Section 8.2 of the Ferndale Position Paper). The GMCC never approved the specific assumptions and inputs for each City. The GMCC was never given the chance to discuss those inputs, and if it had been given that opportunity, it is doubtful that the LCA as it is currently constructed would be approved (see Section 8.2). However, the GMCC *did* recommend the approval of the City's overall UGA proposal, the results of which have been incorporated into the Ferndale Position Paper.

The City does propose utilizing different assumptions/ inputs, and can demonstrate in the City's Position Document that the City's proposals are more accurate than the County's LCA, reflect the intent of the LCA methodology, and are more defensible (See Ferndale Position Paper, Sections 6 and 7, 8.7 and 8.8.). In addition, the City has identified a number of errors in the assumptions of the LCA (Sections 6.1-6.9, 7.2, 7.4). The County Council cannot approve a document that has so many errors and expect to withstand a legal challenge.

The 2007 BLI did suggest that the UGA was likely over-sized, but the City did not recommend reducing it at that time. After working through the Whatcom 2031 process, however, the City is now recommending a substantial reduction (nearly 1,000 acres – see Sections 2 and 3). Second, the County's analysis is based on the *capacity* of the City to support growth, rather than the likely densities that will occur. The City has compared this to the speedometer on a race car – the vehicle has the capacity to travel at nearly 200 miles per hour, but the actual speed will be closer to 70 mph.

Specifically, the County LCA has assumed that densities will be close to the maximum densities allowed in individual zones. Realistically, densities will be closer to the mid-ranges projected in the City's Comprehensive Plan (Section 6.6). Although there is no longer a "bright-line" for identifying urban densities, Ferndale's Comprehensive Plan exceeds the previous standard of four units per acre.

The City has proposed utilizing these higher densities, and argues that Whatcom County has no legal authority to require higher densities. Also, the County has assumed infrastructure deductions (for roads, storm water, trails, and open space) that are significantly less than the achieved densities in the City (6.2-6.6, Table I). Although City codes and new technologies promote greater efficiencies, the land remaining to be developed in the City is much more likely to be encumbered by existing structures, slopes, wetlands, and other constraints than the land that has previously been developed. The City believes that the achieved infrastructure deductions will likely be consistent in the near future. Finally, the County did not utilize 2008 OFM projections as required in the LCA methodology. The City has replaced the County's projections for occupancy rates and persons per household with the 2008 OFM projections, as stated in the LCA methodology. A complete discussion is found in the City's position paper, Sections 6.3 and 6.4.

- b. Can you identify specific areas within the county-wide methodology where the County has not included your proposed assumptions? If so, where?**

Yes. See above. In addition, the County has suggested that the methodology within the City's Buildable Lands Inventory is different from the County Land Capacity Analysis, and will result in "double counting" infrastructure and other inputs. This is not the case (Section 6.6 and 6.7, including related exhibits). Both methods utilized a CTED model to arrive at net developable acres, by deducting critical areas, infrastructure, and more from gross acreage. The City's projections of 4, 7, and 12 units per acre for the three residential Land Use calculations are based on the remaining net developable land (not gross developable land, as the County has argued).

- 2. Land Demand. The city's request for population and employment allocation were based on a higher county-wide growth forecast in the Draft Environmental Impact Statement than agreed to by the Growth Management Coordinating Council. Specifically, the Growth Management Coordinating Council adopted a population and employment forecast for Whatcom County in October 2008, later modified in July 2009 at the request of the cities. The population forecast was for 251,490 by the year 2031, later increased to 253,951. The City of Ferndale request for population allocation was based on the Draft EIS alternative with a different base forecast of 258,448. While the GMCC adopted the allocation requests of the various cities, it did so by shifting the population center away from Bellingham, which the County Executive and Planning Commission have not recommended. Questions:**

- a. **Does the City of Ferndale believe that the county-wide growth forecast should be higher than the Growth Management Coordinating Council recommendation of 253,951? If so, why?**

Yes. The City has been consistent in arguing that the OFM mid-line projection is the most likely population projection. The County Executive's recommendation (which did not reflect the GMCC recommendation) projects historically low growth rates. In only 10 of the previous 50 years have the growth rates in any single year been at or less than those projected by the County Executive. Meanwhile, in 13 of the previous 50 years, the growth rates have actually been double (Section 8.8) However, while the City does believe that the overall County population estimate is too low, the City does not believe the allocations for Ferndale require amendment. The City does not agree with the statement that the City's request for population exceeds the allocations provided for by the GMCC or the EIS – the City has not disputed the population allocation of 8,637, or the employment allocation of 4,747. The City has disputed the manner in which that population will be distributed in the City and its UGA. (Sections 1, 2, 3).

The GMCC agreed that Ferndale's employment allocation should be increased from the County staff's proposal. Ferndale believes that the City should reduce its status as a bedroom community to Bellingham, and in doing so has argued that the City should experience the same percentage of employment growth as it does for population growth. (If Ferndale receives 5% of the total population, it should receive 5% of the total employment growth).

The allocation numbers were identified independently of the Land Capacity Analysis. The County Executive has reduced those numbers in his recommendation, and County staff has portrayed Ferndale's response as a rejection of the entire process. This is not the case, and this misportrayal has led to general confusion over Ferndale's position and the errors in the Land Capacity Analysis.

- b. **Ferndale currently accounts for 6.3% of the county population and 7.1% of the county employment. The County Planning Commission has recommended that the share of the county population growth increase to 15.1% and 13.1% of the employment growth. Does the City of Ferndale have any studies to suggest that this allocation is insufficient to accommodate the city's share of anticipated growth?**

It is not the allocation number we question, but the land area that the County assumes is needed for the allocation. To repeat – the City of Ferndale supports the GMCC's allocation of 8,637 new residents to the City of Ferndale, as well as the GMCC recommendation of 4,747 new employees. County staff has attempted to convince the County Council that the Land Capacity Analysis is an infallible link between allocation and land area that an allocation of "x" people must result in a land allocation of "y" acres. The City has demonstrated that while a link between

allocation and land does exist, the County-proposed LCA is not that link, and that *any* LCA, no matter how scientific, should be only one component of the ultimate land use decision.

The County is assuming that the employment allocation will automatically result in a sufficient land area to accommodate that population. This is not true – the County Land Capacity Analysis utilizes achieved commercial and industrial densities to project future densities. It also makes no effort to examine the size of available land (Sections 6.8, 6.9, 7.2, - 7.4). Therefore, while the Land Capacity Analysis (based on existing commercial development) may suggest that a certain land area is needed to accommodate future growth, it does not anticipate that future commercial growth (or a certain percentage of it) will be in the form of land-intensive development, particularly retail and industrial development. Large retail and industrial projects are known for being very land intensive, requiring significant amounts of contiguous land for one development. The Land Capacity Analysis aggregates parcels together to form an inflated estimate of available land, but in many if not most cases, the available land is not contiguous – it may not even be in the same area of the City (Section 6.8)

Though Ferndale does not project that every new development will be “large”, it is very likely that large retail and industrial projects will develop in Ferndale over the course of the planning period. These developments will likely utilize large areas of land, so additional land is necessary to fill these land use inventories. Ferndale proposes adding two areas to the existing commercial/industrial UGA.

3. **Urban Growth Area Reserve.** The County Executive and Planning Commission have recommended removal of areas from the Urban Growth Area. The Executive proposed that some of the area be put into an Urban Growth Area Reserve, with joint planning between the county and city. Questions:
  - a. **What is the city’s preference for the area proposed by the Executive as an Urban Growth Area Reserve: as a Reserve or the Planning Commission recommendation to remove that designation?**

Neither. The City of Ferndale believes that based on the corrected Land Capacity Analysis, the appropriate designation for these areas remains UGA. The City may consider an adjustment (expansion or reduction) to these areas at the conclusion of the City’s ongoing 2011 update (Section 8.8, 8.9)

The Urban Reserve designation, though it has many benefits, lacks the support of the GMA or clear criteria that must be supported in an interlocal agreement with the City. Urban Reserves are generally intended for planning beyond the 20 year planning period. The GMA calls for three designations: incorporated City limits, the

20 year UGA, and unincorporated County. The Urban Reserve would essentially be another name for Long Term and Short Term Planning Areas, which are themselves legally questionable.

Removal of the Urban Reserve does not erase legitimate planning issues, however: County Staff, in proposing Urban Reserves, acknowledges that the future use of these areas will be urban. In many areas, particularly the Malloy/ Vista subarea, there is the need for joint planning as a variety of public facilities will provide links between the City limits to the north, east, and south. Specifically, Vista and Malloy will be utilized almost exclusively by Ferndale traffic but will be maintained by the County. It makes little sense for an area that is surrounded by City, with residents who shop or work in the City, and on roads that carry City traffic (and in some cases are connected to City utilities) to be in the County, with no provisions for it to be annexed (Sections 4.1, 4.2, 4.3).

- b. If the area is removed from the UGA and UGA Reserve, does the city want to work together on an interlocal agreement for coordinated planning of these areas?**

There is no reason for the City to participate in coordinated planning to develop an interlocal agreement in an area that the City has no expectation of becoming part of the City. If the areas that the County Executive has proposed as Urban Reserve are transferred into the unincorporated County instead of retained in the UGA, the process and un-vetted criteria for getting the land back into the UGA gives the City no expectation of future planning in these areas. Emergency connections to City services may be considered on a case by case basis, but in general, the City would require that the individual property owner will be responsible for the connections. In addition, the City will require frontage improvements along Malloy Road to reflect City standards, and will require transportation impact fees for any development utilizing Malloy Road (Malloy Road is a City street).