

September 15, 2009

Whatcom County Council and Planning Commission Members
315 Grand Ave
Bellingham, WA 98225

RE: Urban Growth Area Review, (County Executive Recommendations)

Dear Council and Planning Commission Members,

The land use policies considered/EIS process by the Whatcom County Planning Commission in November 2006 ranged from no action, infill, and static UGA or infill and adjusted (expanded) UGA. As a result of these options, it was determined that all of the jurisdictions need to act cooperatively and coordinate their efforts to develop this sub-area plan. As a result there were a number of goals as to what was expected to happen between the City of Bellingham, and Whatcom County. One of these goals was particularly important and that was land supply monitoring. It is easy to see how a land supply monitoring system could have given Whatcom County advance notice of the huge percentage increase in homes built on 5 acre parcels in the County, assuming that the land supply was monitored on an annual basis as was done prior to 2005 by tracking the plat and building permits. It is also a "no brainer" to look at lot prices in Bellingham for a 4,000 to 5,000 sq. ft. lot since 2006 with the costs imposed through impact fees and sewer and water hookups to understand why people opt for 5 acres in the Country.

Many of the other goals are esoteric and do not have any time commitments associated with them. As a result, many of them will not get implemented I e., LU 8 the City shall promote infill by allowing accessory dwelling units, (ADU) in single-family zones has already been modified so that it raises serious doubts about its long term success.

Policy LU-4, encourage infill and rezones to higher density single-family and multi-family in Bellingham and the UGA where services and infrastructure can be efficiently provided. This will undoubtedly work in the UGA however it is highly unlikely that individual single family neighborhoods will allow anything that will change the character of the neighborhood and without some additional political will, this will not happen. The underlying problem with that strategy is that the legislation is not in place to allow for different types of housing in existing residential neighborhoods.

My additional concerns revolve around how the County expects to realistically provide for affordable housing of diverse types by down-zoning 19,000 acres in the County principally along transportation corridors under the guise of saving farmland, and reducing the UGA's by another 10,000 +/- acres rather, it is an attempt to force people back in the Cities, Policy LU-4, although more heavy handed than the policy statement.

Secondly, the zoning text as to allowable uses for the Small Town Commercial and Rural Industrial will significantly reduce the introduction of new business to our County and make it very difficult for existing businesses to expand. We already have some very stringent rules governing location of businesses in areas where public water is not available because of the concern about fire. This is primarily why much of the Guide Meridian and elsewhere have not developed more extensively. I see no reason for downzoning the property further and creating vast areas of properties that are non-conforming.

Let us be clear, the Department of Ecology has made it very apparent that ***"Because non conforming uses are disfavored, and because the public policy of this state is to restrict such uses so that they may ultimately be phased out, see, e.g., Keller v. Bellingham, 20Wn. App. 1, 9, 578 P .2.d 881 (1978), aff'd, 92 Wn.2d. 726, 600P.2d 1276 (1979), as such nonconforming uses are not precedent for other uses. That is, a finding of compatibility cannot, be substantially based on the existence of a nonconforming use in the area in question."***

The attitude that the Planning Commission and staff have is that non-conforming is not important is simply not the case.

With this in the background of the shift of the UGA boundaries, it is evident that no consideration has been given to the burden that a non-conforming use has on individual property owner. One thing for sure is that you create and atmosphere of uncertainty it only creates additional litigation, from persons who invested in property with certain expectations, and now find that they cannot do as they had thought. Land use planning is supposed to be used to provide certainty to people and companies wishing to invest in the area. Not create, a new layer of zoning, regulations (farm plans) regarding raising animals. This really defeats the intent of many people living in the rural areas that wish to teach their kids responsibility and the benefits of working, that is associated with the care and raising of animals.

Since the beginning of the settling of this great Country, agriculture has been one of the foundations and now the future of farming is at risk because of the latest bright idea that everyone having more than two animals needs to have a farm plan. The exceptions are that pets, dogs, cats are exempt, further only last month sustainable connections was having a work shop on how to raise chickens in your own backyard.

It is time for some common sense to prevail, rather than running scared, because of a court imposed deadline.

Respectfully submitted,

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