

# CITY OF SUMAS

P. O. Box 9  
Sumas, Washington 98295  
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MAYOR-Robert Bromley  
CLERK-TREASURER-Geri Lewis  
glewis@cityofsumas.com

COUNCIL MEETINGS  
SECOND AND FOURTH  
MONDAYS OF EACH MONTH

November 9, 2009

Members of the Whatcom County Council  
Whatcom County Courthouse  
311 Grand Avenue  
Bellingham, WA 98225

Subject: County Proposal to Reduce Sumas UGA

Dear County Council Members:

This letter and the accompanying materials are being submitted following your Committee of the Whole meeting held on November 3, 2009 at which time the majority of the County Council voted to bring forward an ordinance to eliminate all portions of the Sumas urban growth area (UGA) located outside of the current City limits. Such an action is not supported by the information in the public record and is based upon a number of factors, including: 1) technical and data problems associated with your land capacity analysis methodology and results; 2) Council's misunderstanding of the level of precision of the results of the land capacity analysis and subsequent improper use of these results; 3) inconsistencies in the treatment of the City of Sumas due to procedural shortcomings of your process and your unwillingness to account for these shortcomings in your final action; and 4) most importantly, your inability to recognize and give weight to the past efforts, public expenditures and goals of the City of Sumas when striking the balance between local goals and broader goals such as the protection of agricultural resource lands and critical areas. If the majority of the County Council had shown more willingness to work in cooperation with the City of Sumas, this letter would not have been necessary.

### County Council Proposed Action

The County Council decision to move forward with an ordinance that would eliminate the Sumas UGA outside of City limits was based in large measure on the results of the Land Capacity Analysis (LCA), which showed that the population allocated to the Sumas UGA through 2029 could all be accommodated within the existing City with a surplus of two net developable acres. Clearly, a surplus of only two acres leaves a very small margin for error. Yet the County Council has insisted upon relying on these results as if the LCA were a precision-measuring device providing a high level of accuracy. The County LCA also showed a surplus of approximately 30 acres of commercial and industrial land within City limits. As discussed below, the accuracy of the LCA results is based on a number of assumptions and data inputs, any one of which if adjusted slightly could shift the overall results from surplus to deficit.

### Land Capacity Analysis Methodology Issues

In its UGA Proposal dated June 8, 2009 the City identified a number of problems with the County's LCA Methodology and its effect on the resultant capacity ascribed to the City of

Sumas. These deficiencies included: 1) aggregation of calculated capacity from subdividable lots, whether vacant or partially developed, and from non-subdividable vacant parcels; 2) use of artificially high assumed densities; and 3) failure to subtract capacity for wetland buffers. The correction of any one of these deficiencies would have resulted in a net decrease in residential capacity for the City. In testimony before the County Council Planning and Development Committee, the City indicated that there are some areas in town that exhibit a historic pattern of lot size and ownership characterized by somewhat larger lots where the likelihood of development at the overall densities seen in other similarly zoned areas is relatively low. Whether through an adjustment to the assumed densities or an increase in the market factors, a more realistic estimation of capacity in these areas would result in a net decrease in residential capacity such that there would, in fact, be a need for additional UGA beyond the current City limits.

For commercial and industrial land, the City identified problems with the use of floor area ratios and employment densities taken from the City of Bellingham and the failure to account for the impacts on capacity of wetland mitigation ratios. When compared to the employment density data provided by other small cities, such as Nooksack, the use of employment densities from Bellingham overestimates the capacity available in commercial areas. Similarly, addressing the significant impact of wetland mitigation requirements and mitigation ratios in the Sumas industrial area would reduce industrial capacity. This is particularly important for Sumas because the undeveloped industrial properties in Sumas have significant wetland areas, many of which are low-value wetlands that will need to be filled to allow more consolidated industrial development.

#### LCA Data Errors

After observing how minutely the County Council relied on the results of the LCA, which showed only a narrow surplus of 2 net developable residential acres, the City went back to review the data used in the LCA and found two data input errors that would, if corrected, shift the LCA results from surplus to deficit. First, a parcel was identified where capacity was included for a part of the parcel that is not accessible due to its location south of Johnson Creek and south of the Burlington-Northern rail line. The parcel number is 400403 442421, and the area that should not have been counted toward residential capacity equals approximately 1.9 acres. Second, the City of Sumas has formally designated a flood buyout corridor associated with the flood path of Johnson Creek through town. When homes in this corridor are damaged due to flooding they are not eligible to be re-built. Over the past several years the City has worked with FEMA to buyout existing homes within this corridor. Given that this process will continue, this means that there are at least 12 additional homes within this corridor that will be removed and the capacity will need to be replaced elsewhere in the community. Putting these two factors together would also shift the results of the LCA from surplus to deficit.

In the industrial zone the City has noted that the County LCA Summary for Sumas does not account for existing structures on partially developed parcels. The City has also identified three additional industrial parcels that were counted as being vacant that are actually being fully used for industrial purposes. The parcel numbers are 410434 245147, 410434 262170 and 410434 335207. These parcels were miscoded because they do not contain any structures but are fully used for loading and unloading wood products and solid waste containers to and from rail cars and trucks. These three parcels comprise approximately 13.5 acres of industrial land that should have been subtracted from the land capacity analysis. Incorporating these data corrections along

with corrected employment density numbers (non-Bellingham numbers) would reduce the apparent surplus of commercial and industrial land to near or below zero.

#### Miscellaneous Data and Procedural Deficiencies

As discussed in the City's UGA Proposal, there were significant problems identified in the job numbers compiled by the County's consultant that significantly underrepresented existing jobs within the City of Sumas. This undercounting translated to a relatively low allocation of commercial and industrial jobs to Sumas. See also Land Capacity Demand & Results, Appendix B-9.

As part of the County's SEPA process, the upper limit on population growth in Sumas was set prior to the City having an opportunity to prepare its proposal. Sumas was the only City where the County was restricted from using the population growth allocation method that it used for the other cities because the population growth for Sumas was capped by the EIS bracketing. If the same process had been used to allocate growth to Sumas, then over 300 additional people would have been allocated to Sumas. See Land Capacity & Demand Results, Appendix B-8. Yet the County Council has refused to acknowledge this procedural inequity and has chosen not to place a portion of the existing UGA in Urban Reserve.

The appropriateness of retaining some additional area from the current UGA as either UGA or Urban Reserve is further underscored by the fact that the population growth allocated to Sumas of 793 is less than the growth number that would be expected based simply on the average annual population growth seen in Sumas from 2000-2009. During this period the City grew by an average of over 38 people per year. Based on this growth pattern an accurate 23-year allocation would equal approximately 884. Even though the City has made this point repeatedly, the County Council refuses to take such information into account.

#### Lack of Coordination and Cooperation with City

The County Council's proposed action to eliminate the Sumas UGA outside of the current City limits reflects an unwillingness to show respect for the information and priorities put forward by the City of Sumas. Thus far, very few of the City's concerns with the Land Capacity methodology have been addressed. In response to the City's concern regarding capacity aggregation, County staff noted that the land capacity did not include any additional capacity for accessory dwelling units (ADUs) of residential units in commercial areas. None of the City's residential zones allows accessory dwelling units at this time, and the City does not believe that it is appropriate for the County to dictate land use decisions, such as allowing ADUs, within the City to justify the over-estimation of capacity reflected in the land capacity results. Also, when the City identified its high-priority areas for retention within the UGA, the County Council gave this no apparent weight.

The County Council has also failed to acknowledge and take into account the significant expenditure of public funds made by the City of Sumas in extending infrastructure to serve the southern UGA. See memorandum from the City Clerk. Over the past several years the City has spent nearly \$3 million dollars expanding its park adjacent to the UGA and extending infrastructure to the southern City limits. These expenditures include over \$300,000 to construct a sewer lift station that was sized to serve the full build-out of the southern UGA and over \$700,000 to extend water service and electrical power. State and County monies were also spent in making these park and infrastructure improvements, including \$350,000 in EDI funds that

came from Whatcom County. The above numbers do not include the substantial time and expense spent by the City to prepare and adopt its comprehensive plan, which fully addresses and plans for growth into the southern UGA and which represents many hours of planning and public process over the course of many years. The County Council should not disregard this significant expenditure of public funds.

Through this process the County Council has not matched the City's willingness to consider compromise proposals. As the UGA review process unfolded, City staff made it clear that UGA configurations other than the one proposed by the City might also be acceptable to the City. These alternatives included placing part or all of the existing UGA into an Urban Reserve. Thus far, the County Council has not shown a willingness to consider any of these alternatives that would support ongoing planning for the future by the City while meeting some of the County goals – such as supporting an agricultural land mitigation policy.

Rather than considering the issues brought forward by the City, the County Planning Commission and County Council have focused on a few narrowly defined issues, some of which the City has provided testimony about indicating that they are not significant factors affecting the designation of the Sumas UGA. First, the County focused on the presence of FEMA-mapped floodplains in the UGA. The City provided testimony regarding the fact that the area in the UGA to the south of the City has no history of flooding and in fact is the most suitable location for future growth of the City. See letter from Mayor Bromley and Public Works Director, Rod Fadden. The City also noted the results of a recent study of a portion of the Sumas River that showed substantial errors contained in the FEMA Flood Insurance Rate Maps associated with the Sumas River. In addition, the County tried to focus on potential hazards posed by naturally occurring asbestos found in sediment carried by the Sumas River. Again, the City provided testimony indicating that there is no history of either sediment or floodwaters from the Sumas River impacting the Sumas UGA outside of City limits.

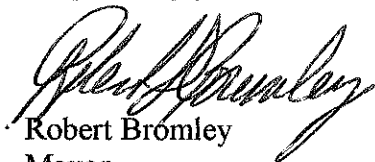
In the end the County Council appears to have based its proposed decision to eliminate the Sumas UGA outside of the current City on two factors alone: 1) results of the land capacity analysis (with no consideration of potential deficiencies identified by the City); and 2) the presence of County-zoned agricultural land. The City's position is that the retention of all or part of the City's UGA does not pose a real threat to the future of agriculture in Whatcom County. In fact, maintaining adequately sized UGAs is one of the most important factors in slowing the pace of rural sprawl that has been allowed under County zoning. It should also be noted that the City of Sumas is one of the largest supporters of agriculture in the entire county through its provision of low-cost wholesale water to the Sumas Rural Water Association and the Nooksack Valley Water Association. Without the inexpensive water provided by Sumas many more of the county's farmers would be out of business. Although the City hopes that this is not the case, it may be true that if the City of Sumas is unduly constrained in its efforts to accommodate anticipated population growth in its southern UGA, the City may need to compensate for the loss of such additional revenue through the raising of retail and wholesale water rates, which would significantly affect the viability of local farming. As has been required of other jurisdictions when proposing to de-designate agricultural areas, the City of Sumas believes that before the County can de-designate an area already in an urban growth area based on shifting it to a resource designation, the County must demonstrate that it has fully analyzed the need for that de-designation, including showing that the increase in resource land base cannot be provided by an

alternative means such as re-designation of other rural lands that are already being used for agriculture so that these lands are incorporated into the agricultural land base of the county.

Conclusion

Based on all of the information and materials presented and referred to in and attached to this letter, the City of Sumas respectfully requests that the County Council reconsider its position with respect to the Sumas UGA and take one of the following actions: 1) Retain the Sumas UGA in its current configuration (excluding the 5-acre portion of a parcel located adjacent to the Sumas River); or 2) Retain that portion of the above-described UGA located between State Route 9 and Hovel Road as UGA and place the remaining area located east of Hovel Road into Urban Reserve; or 3) At a minimum, place all of the above-described UGA into Urban Reserve. If you do not choose to make any of the requested adjustments, the City of Sumas will consider you to have failed to meet your obligations under the Growth Management Act to coordinate with local jurisdictions throughout the comprehensive plan review and update process.

Respectfully yours,

  
Robert Bromley  
Mayor

# CITY OF SUMAS

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COUNCIL MEETINGS  
SECOND AND FOURTH  
MONDAYS OF EACH MONTH

November 6, 2009

Whatcom County Council  
311 Grand Avenue  
Bellingham, WA 98225

Subject: Concern Regarding Potential Flooding in Sumas UGA

Members of the County Council:

It has come to my attention that several County Council and Planning Commission members have raised concerns about potential flooding in the south section of Sumas in our Urban Growth Area (UGA). The main reason the City of Sumas selected to move to the south with the Urban Growth Area is because no flooding has occurred in this area in the past. The main source of flooding in Sumas is from Johnson Creek, which carries overflow water from the Nooksack River into our downtown area located north of Front Street. The Sumas UGA is all located well south of Front Street.

I personally lived in this area for 33 years right along the banks of Bone Creek. In the flood of 1990, Bone Creek stayed within its banks. In fact, the Washington National Guard brought their equipment and vehicles to my property and spent the night while they were helping Sumas area residents during the flooding. My property and the entire surrounding area were high and dry.

In January 2009, the Sumas River was the highest my mother has ever seen it in the 84 years she has lived along the river. It overflowed at my mother's property, which is north and east of Sumas (not within the UGA), but at the Hovel Road area, the UGA area was high and dry once again.

The attached FEMA Flood Insurance Rate Map (FIRM) shows the vast majority of the UGA property out of the flood plain. The BNSF Railroad grade to the west acts as a dike that stops any Nooksack River overflow water and directs it north to the center of town.

The UGA area as shown on the attached map is clearly a good choice by the City of Sumas for future growth. In fact, planning for growth in this southerly direction is our only choice given the reality that we are surrounded by floodplain on the west and east and bounded by the International border to the north.

Sincerely,

A handwritten signature in black ink that reads "Rod Fadden". The signature is written in a cursive style with a large, prominent initial "R".

Rod Fadden  
Public Works Director



## **CITY of SUMAS**

From the desk of Bob Bromley, Mayor

Dear County Council:

In regards to FEMA mapping and flooding in the existing Sumas UGA, there has never been flooding in this area by the Sumas River, Bone Creek, Johnson Creek, or any of the Nooksack River overflow waters. FEMA maps may show these types of areas in the UGA, but after the 1989 and 1990 Sumas floods the City found that the FEMA mapping within the City Limits were very inaccurate. The City of Sumas conducted a survey after these floods and the results proved these inaccuracies and FEMA agreed in which they concluded to the amending of the flood maps. Knowing the changes made by our survey and what elevations exist in the UGA our assumption is that FEMA maps would greatly change in this area too.

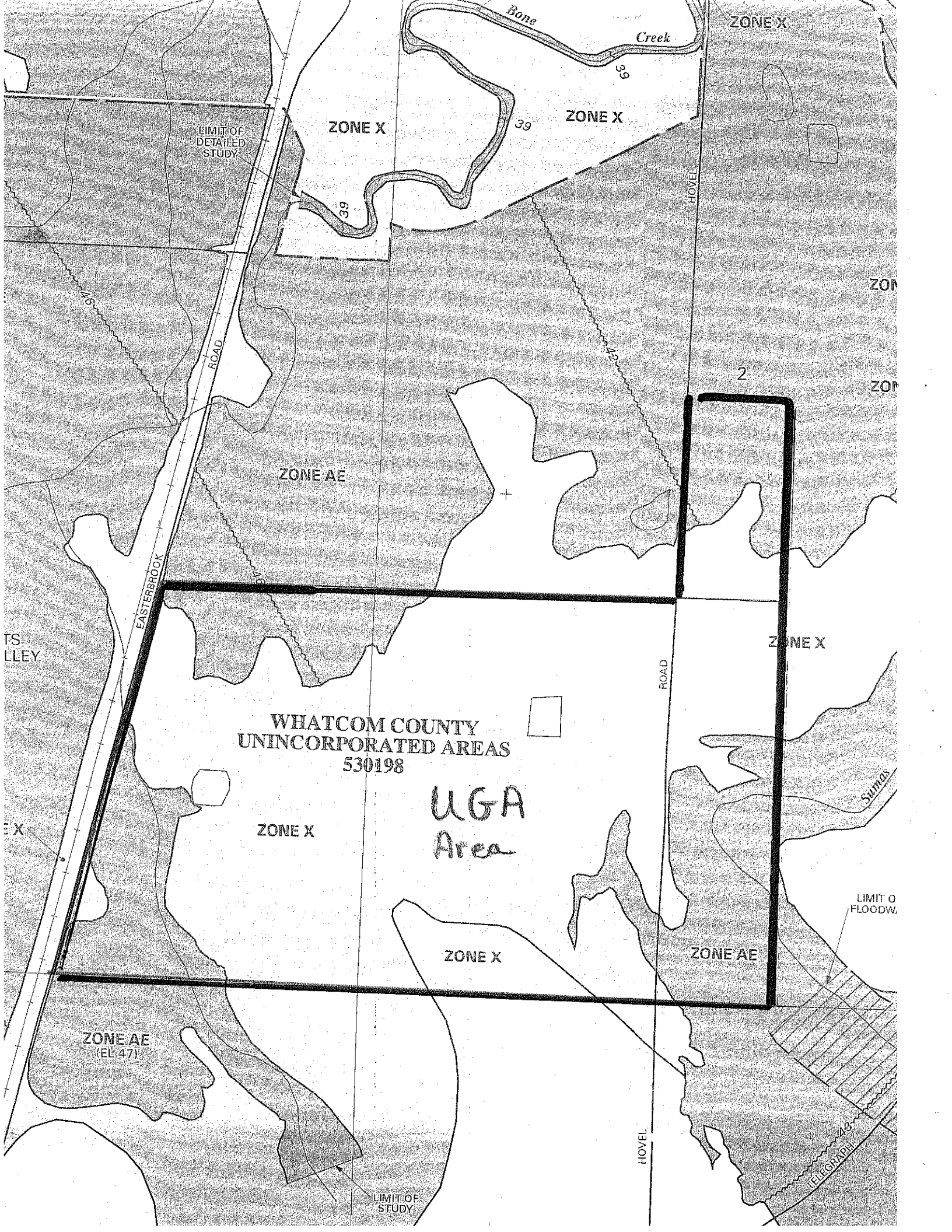
As Sumas City limits exist today the Nooksack River overflow can endanger 75% to 80% of the City. Sumas many years ago set flood regulations to the most at risk and flow areas to remove or have buyouts of homes in a core area that would help reduce the impediment of the flood water flow. The existing UGA has always been considered an area for the City to establish the residential out of the at risk areas.

Finally, as a lifetime resident and member of a family that has resided in Sumas since 1886, there has never been flooding in the existing area of the Sumas UGA and the future of development of this area certainly benefits the City and its citizens in mitigating the endangerment from flooding.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bob Bromley'. The signature is written in a cursive style with a large, sweeping 'B'.

Bob Bromley  
Mayor, City of Sumas



WHATCOM COUNTY  
UNINCORPORATED AREAS  
530198

UGA  
Area

ZONE X

ZONE X

ZONE X

ZONE AE

ZONE X

ZONE X

ZONE X

ZONE AE

ZONE AE  
(EL 47)

LIMIT OF  
STUDY

LIMIT OF  
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DETAILED  
STUDY

EASTERBROOK  
ROAD

HOVEL  
ROAD

HOVEL

TELEGRAPH  
ROAD

Bone  
Creek

Suttas

39

39

39

2

45

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November 9, 2009

Whatcom County Council  
311 Grand Avenue  
Bellingham, WA 98225

Subject: Decisions on Urban Growth Areas

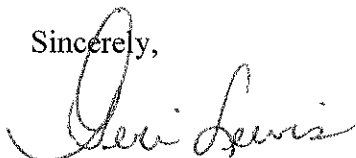
Members of the County Council:

The City of Sumas has spent quite a few dollars on upgrades to our infrastructure by extending water and sewer services including a new lift station, to support growth to the south of Sumas in what was planned to be our Urban Growth Area. Because of the proposed UGA, the new ball fields were planned and built at their current location on Hovel Road. Approximately \$750,000 of State and IAC grant monies were used to build these ball fields, based on the current Comprehensive Plan vision of expanding new growth into the UGA south of the fields. \$350,000 was received from the Whatcom County EDI program which paid for a new sewer lift station and related sewer line installation costs to serve the UGA south of the ball fields. \$175,000 was a grant and we are currently paying back the other \$175,000. We also paid almost \$23,000 for extending water lines for future growth.

The City of Sumas in connection with Puget Sound Energy partnered in an electrical line upgrade to increase megawatt capacity for future growth in our Urban Growth Area. This cost the City over \$709,000 which we are currently making payments on.

The City has also entered into an agreement with the City of Abbotsford which we are currently paying for future sewer hookups in anticipation of expansion in our UGA to the south of Sumas.

Sincerely,



Geri Lewis, Clerk-Treasurer  
City of Sumas