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LONG RANGE
PLANNING DIVISION

September 14, 2008

S.D. Wilson
682 Sprague Valley Drive
Maple Falls, WA 98266
Resident, Columbia Valley UGA

To: David Stalheim, Director, Whatcom County Planning and Development Services
From: Sean D. Wilson, Resident, Columbia Valley UGA

RE: Foothills Subarea Plan Draft Supplemental EIS

CC: Whatcom County Planning Commission, Whatcom County Council.

Please include this as part of the permanent record pertaining to the matter of the Foothills Sub Area Plan Update and the related **DSEIS** published for comment on August 1, 2008.

SUMMARY

As a resident of the Columbia Valley Urban Growth Area and a member of the FSPAC charged with the duty of representing the interests of thi community - I am compelled to express my support for the FSPAC recommendations and Alternative 1 **without** further reduction of the UGA boundary as contemplated in the (Alternative 1) mitigation maps.

I have spent some time formulating my response to this document and considering the process to date in light of the SEPA determination and corresponding DSEIS. I have several observations and thoughts regarding this process which I have outlined below.

I. PROCESS

A) Public Resources and Planning Methodology

As a member of the FSPAC I am concerned about the lack of emphasis placed on the recommendations adopted by that committee in the DSEIS and about the apparent disregard for the expenditure and mismanagement of public resources. It appears as if an inordinate amount of emphasis has been placed on the minority "opinion" since the FSPAC recommendations were submitted in October 2007.

I do not fully comprehend the methodology being employed with this process or the cost benefit to the County in denying the FSPAC studies that were requested (and apparently necessary) during the process, allowing them to complete an entire plan without the benefit of these additional studies over a 19 month period under staff

supervision, and then triggering a DS through SEPA to conduct the studies anyways. This seems ill conceived, highly suspect, and clearly disrespectful to the process and the members of this advisory committee who volunteered their time in service to their Community.

What possible benefit is there to employing (and paying) a professional consultant (Studio Cascade) to work with the FSPAC in drafting the plan if the County is only going to undermine that professionally drafted plan immediately upon its completion and introduce additional studies, alternatives and recommendations that clearly should have been made available during the FSPAC's creation of the goals, policies and text pertaining to the plan.

If these studies were necessary to make informed decisions regarding adverse environmental impacts it seems pretty obvious that they should have been conducted and available for review by the FSPAC **prior** to the conclusion of their work and the work of the Consultant, and the issuance of a final recommendation.

B) FSPAC Business Rules and the Dissenting Minority Opinion

I believe that the FSPAC minority "opinion" published under the heading "Minority Report" should have been reviewed and rejected as an officially recognized part of the FSPAC recommendations. This document would have more appropriately been identified and recognized as public comment since it purports speculative opinion and recommendations that were not voted upon and/or deliberated by the FSPAC as a whole.

The following guidelines properly delineate the intent of the FSPAC concerning consensus and voting. These "**Business Rules**" were officially adopted by consensus of the committee as defined in sections (a)-(d) below at a public meeting, and clearly constitute a binding agreement between the members concerning the manner in which they would conduct Whatcom County's Business as representatives for their respective areas and members of the FSPAC. (Ref. Foothills Sub-Area Plan Advisory Committee Meeting Summary, May 3, 2006.)

Where possible, decision-making will be by consensus. Consensus means all of the following:

- (a) That everyone on the committee can live with and support the decision.
- (b) That everyone on the committee feels that the best solution has been reached.
- (c) That the positions of each member have been heard, respected, and seriously considered.
- (d) That no member had to give in on any strongly held convictions, values or needs.

*When, after due deliberation consensus is not reached on a decision, the committee will reach a decision by majority vote. **Any decision reached by vote** may be accompanied by a majority or minority report at the discretion of the majority or the minority. (Emphasis added)*

While the business rules grant discretion to a dissenting (“minority”) opinion and empowers a member ‘to provide’ and/or ‘decline to provide’ an accompanying minority report on issue specific votes, it should be noted that the document currently recognized in this process as the “minority report” contains numerous pages of information unrelated to issues that went to a vote of the committee.

This appears to be a subversion of the intent of the business rules and the process as a whole, and appears to conflict with the intent of Council resolution 2005-062 which clearly states, in appropriate legal language, how these matters will be resolved and the expectation placed upon County staff regarding interpretation of decisions made by this committee. I submit the following excerpt from the referenced resolution for your review:

*“... the advisory committee may operate on a consensus basis, provided that if consensus cannot be reached, a majority vote **shall** determine the recommendation of the committee.” (Emphasis added)*

As I review the process since signing the Draft Plan in October 2007, I am dismayed to find numerous references to decisions that the minority *would have liked* to see included in the plan and *extensive treatment* of issues that were never voted on by the FSPAC included in both the DSEIS and the “minority report”.

The record of these proceedings clearly demonstrates that the minority members actively participated and assisted to frame the entire Draft Plan, regularly initiating changes to policy language, baseline data assessments and Land Use boundary adjustments during the 19 months of deliberation.

Please review the following policies and note the significant conflict that arises between the minority opinion and these votes, as agreed by consensus of the FSPAC (Including minority members)

- **Goal CV1** – Concentrate urban growth in the Columbia Valley UGA, creating a diverse mix of land uses and resulting in the provision of a full spectrum of urban services, including water, sanitary sewerage, storm drainage, law enforcement, fire protection, libraries, schools, parks, public transit and other similar services.
- **LU1-E** Encourage urban levels of development only in the Columbia Valley UGA
- **LU2-A** Encourage the integration of mixed uses, open spaces, and civic places into the Columbia Valley UGA.
- **CV1-C** Whatcom County has adopted an approximately 40-acre Planned Light Impact Industrial designation within the Columbia Valley UGA as shown on the UGA map. The County may designate another 40-acres of land for UGA/light impact industrial development within the boundaries of the Potential Planned Light Impact Industrial designation only if the initial 40 acres in the planned light impact industrial designation is either substantially put to use for industrial purposes or is removed from the UGA/Planned Light Impact Industrial designation by amending the Foothills Subarea Plan and the Whatcom County

Comprehensive Plan. In any case, the County's intent is to meter the amount of land available for light impact industrial uses to match demand and to avoid designating more land than necessary for light impact industrial development

- **LU2-F** Study and, if feasible, facilitate incorporation of the Columbia Valley UGA.
- **LU4-A** Encourage development of light impact industrial or business park land uses in the Columbia Valley UGA in areas planned for light impact industrial uses.
- **LU5-A** Provide public squares and other similar types of public gathering spaces in or near the centers of the small towns and in the town center of the Columbia Valley UGA.

This very small, yet extremely relevant selection from the 160 policy choices **agreed to by consensus** of the FSPAC (including minority members) clearly demonstrates the level of subversion and contradiction that punctuates the “minority report and opinion”.

I am unable to understand how the minority members can agree with goals and policies like CV1, CV1-C and LU4-A, and then fail to uphold their duty to support the plan containing these recommendations, after the committee had completed the work and built upon these very foundations.

The FSPAC business rules clearly define a member’s obligation to support the final draft containing FSPAC recommendations. As noted below:

The Advisory Committee will complete its work and issue final recommendations on the Foothills Subarea Plan by March 31, 2007. **All** Advisory Committee members **will sign** the report containing Advisory Committee recommendations.

It is relevant to note the complete absence of deliberation during the FSPAC process, regarding the LAMIRD criteria with consideration to the Columbia Valley UGA which is discussed in the minority report on page 13. This discussion was NEVER considered by the FSPAC nor was it ever a recommendation brought by the planning consultant, Studio Cascade, during the FSPAC’s review of the land use alternatives.

In fact, the opposite is true, the FSPAC reviewed alternatives that could create a model city within the UGA rather than redefine this area as rural which would have been **clearly erroneous** and in direct conflict with the goals and values expressed at the workshop(s) pertaining to this area, and the mandates set forth in the Whatcom County Comprehensive Plan and Resolution 2005-062.

Like so many other discussions presented in the minority ‘manifesto’, the discussion regarding the UGA and its assessment under the LAMIRD criteria clearly should not be part of the minority report since it was never brought before a vote of the FSPAC and similarly, has no place in this current DSEIS.

I strongly encourage the County to re-assess the validity and standing of this “minority report” and consider its inclusion in the public comment portion of the public record

rather than including it within the scope of recommendations and official reports pertaining to the FSPAC proper.

C) September 4th Public Hearing

Regarding the public hearing held at the Kendall Elementary School on September 4th 2008. As a regular attendee and participant at various levels within the Public Process, I was surprised upon arrival at this hearing, expecting a professionally organized and managed public hearing, to find large signs purporting a “no growth slogan’ lining the entire entrance to the School and a table at the entrance to the hearing room appearing to be an official sign-in area which turned out to be a recruitment station staffed by members of the “public” supporting a no growth position.

This “Public Hearing” was clearly framed by this “group” from the moment of the public’s arrival in the parking lot and **appeared** to have the support of County organizers who were responsible for the use of these public facilities that evening, notwithstanding the County’s disclaimer to the contrary when the meeting actually began. By this time of course the damage had been done and many members of the public were observed to leave the hearing prior to its commencement. Others were noted to have signed-up to speak and then subsequently declined to comment.

The overt intimidation tactics presented at the entrance to the hearing combined with the County Organizer’s failure to control and manage the facility, clearly created conditions un-conducive to a fair and impartial review of public testimony or the sense of community building that I have come to associate with the Foothills Sub Area Planning Process to date, and has significantly and adversely affected my continuing confidence in this process as it moves forward.

II. TECHNICAL DATA and DSEIS ALTERNATIVES

A) Population projections and planning horizons

The population projections and planning horizon(s) utilized in the DSEIS are not consistent and do not provide a meaningful comparison of the alternatives under consideration.

The alternatives contemplate progressively lower projections and inconsistent planning periods, with 5 additional years of growth contemplated in alternative 1. It seems obvious to note that any alternative containing additional years of growth will likely appear to create the most significant impacts especially when that same alternative considers the highest level of growth in addition to its extended planning horizon.

B) Reasonable Alternatives

I question the validity of contemplating alternatives that cannot *feasibly attain or approximate* the objectives of the proposal, as presented by the FSPAC in the Draft Foothills Sub Area Plan recommended in October 2007.

Alternative number 2 is clearly not aligned to the requirements of the GMA and alternative number 3 cannot reasonably be expected to produce a solution that would attain or approximate the goals set forth in both the Draft Foothills Sub Area Plan or the current Whatcom County Comprehensive Plan as they pertain to the Columbia Valley UGA. With due consideration to the County's required inclusion of the "No Action" alternative, I can find no similar support to justify the inclusion of alternative number 3 as it pertains to the CV UGA. However, as this alternative pertains to the small town commercial areas located in the rural zones, it seem appropriate and should therefore re-focus its attention exclusively to these areas in the FSEIS.

It is clearly evident that additional services and an increase in the levels of service currently available (such as public sewer) in the UGA are going to be necessary to address existing population densities and identified impacts and challenges pertaining to this unique area of the East County.

Please note the following citation from the WWGMHB:

"We remind the county that LAMIRD provisions were added to GMA to allow the county to acknowledge pre-existing development, not as a prospective and ongoing rural development tool. The county must not add new LAMIRD designations six years after that opportunity was provided through addition of RCW 36.70A.050(5)(d)." (Anacortes v. Skagit County, 00-2-0049c, Compliance Order, 1-31-02; excerpted from WWGMHB Digest Update, January 2007, pg. 147)

Sewer and Storm Water Management will be key elements to these improvements in the Columbia Valley UGA and have been clearly identified as URBAN services within the County Comprehensive Plan and numerous GMHB decisions. I do not feel that the LAMIRD alternative as it pertains to the Columbia Valley UGA, meets the definition of "reasonable" as defined in WAC 197-11-440(5) (b) and should therefore be excluded as it pertains to the UGA, in the FSEIS.

C) Conflicting Data

The Planning and Development Staff Report dated July 14, 1999 (File #CMP99-00007) pertaining to the Columbia Valley/Kendall Urban Growth Area on pg. 5 states that:

"As shown in the above analysis of density in the existing developed areas (Table 1), existing development in the Columbia Valley and Kendall areas is already characterized by urban growth, as defined under RCW 36.70A.030(17). This existing development "makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources, rural uses, rural development, and natural resource lands designated pursuant to RCW 36.70A.170."

In this report published in 1999, the accompanying table (referenced in above citation) indicates that the density of platted lots in the Columbia Valley UGA was 5.02 units per acre at that time, and clearly identifies this area as being "Characterized by Urban Growth" as defined in RCW 36.70A. Since that time additional and significant development and infill has occurred in this area of the East County as will be noted in the current population estimates and numerous references available through the Sub Area Planning Process, including materials submitted by ECONorthwest.

The densities utilized throughout the DSEIS appear to change depending on the impact under review and often conflict with other sources of information, such as county staff reports and numerous studies that have previously been conducted for this area.

It would be prudent for PDS to maintain a level of consistency in all data presented throughout the final document to ensure all areas under consideration represent meaningful comparisons upon which our County Decision makers can make informed decisions.

Thank you for the opportunity to provide my written comments on this DSEIS

Sincerely,

Sean D. Wilson
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Maple Falls, WA 98266
Columbia Valley UGA