

**WHATCOM COUNTY
PLANNING & DEVELOPMENT SERVICES**

5280 Northwest Drive, Suite B
Bellingham, WA 98226-9097
360-676-6907, 360-380-8100
360-738-2525 Fax



DAVID STALHEIM
Director

J.E. "SAM" RYAN
Assistant Director

M E M O R A N D U M

TO: Whatcom County Planning Commission
FROM: David Stalheim, Director
DATE: September 23, 2009
RE: Urban Growth Area Deliberations on September 24th

On September 17, 2009, the Whatcom County Council and Planning Commission held a public hearing on proposed amendments to the Whatcom County Comprehensive Plan and Zoning Ordinance regarding the review and revision of Urban Growth Areas. The proposed amendments were submitted by County Executive Pete Kremen in response to city and community proposals for Urban Growth Areas presented to Whatcom County on June 16th, and subject to public hearing on June 23rd.

This memorandum outlines the issues that we ask the Planning Commission to focus on for your deliberations on September 24th. We request that you focus on three overall Urban Growth Area issues as further described below, and five Urban Growth Areas.

Additional consideration of the Urban Growth Area proposal includes two planned meetings on the 8th and 15th of October, with reservation of additional time if needed on the 22nd of October. The Planning Commission might also consider a special meeting on the 1st of October if deemed necessary to ensure that you finish your recommendations in time for County Council consideration.

October 8th (focus of deliberation):

UGA Reviews:

- o Bellingham
- o Ferndale
- o Birch Bay
- o Blaine
- o Columbia Valley

October 15th meeting (focus of deliberation)

- Comprehensive Plan Text Chapters
- Zoning Text Chapters
- Remaining UGA Issues

October 22nd

- If necessary

OVERALL ISSUES

There are three primary issues we have identified that should be discussed before deliberation commences on specific Urban Growth Areas:

1. Growth Forecasts and Allocations
2. Urban Growth Area Reserves
3. Capital Facility Plan Requirements

GROWTH FORECASTS AND ALLOCATIONS

Several data sources document the growth forecasts and allocation for Whatcom County. For ease of reference, please note the following.

Comprehensive Plan Amendments, Chapter One

- ◆ Table 3 (page 1-6) – OFM Population Projections
- ◆ Table 4 (page 1-8) – Whatcom County Population Projections and Distribution
- ◆ Table 5 (page 1-9) – Whatcom County Reserve Population Projections
- ◆ Table 6 (page 1-10) – Whatcom County Employment Projections and Distribution

Review of Growth

- ◆ Extent of Urban and Rural Residential Growth, various tables (Appendix A, Part 1)
- ◆ Rural and Resource Land Development Potential, Tables 9 and 10 (Appendix A, Part 3)

Land Capacity & Demand Results, Land Demand

- ◆ Table 4 (Appendix B-6) – Share of Growth
- ◆ Table 5 (Appendix B-6) – Growth Rate
- ◆ Table 7 (Appendix B-7) – Share of Employment Growth
- ◆ Table 8 (Appendix B-8) – Assumptions Used in Allocation of Population
- ◆ Table 9 (Appendix B-9) -- Assumptions Used in Allocation of Employment
- ◆ Attachment 1, Land Capacity Summary Sheets – Population and Employment capacity for city/community proposal and Executive Proposal

Consultant Studies

- ◆ County-wide Growth Forecasts (EIS Scoping Hearing Packet – February 17, 2009)
 - Assessment of Existing Projections
 - Technical Addendum
 - County-wide Population and Employment Extrapolations and Scenarios
 - OFM Population Projection Process

Growth Management Coordinating Council

- ◆ UGA Review Policy Paper (July 2009)

Public and Agency Input On Growth Forecasts and Allocations

There were several comments received regarding the overall growth forecasts and the allocation of that growth to specific urban areas.

While most of the comments focused on allocations of growth, some overall concerns were received that the forecasts were too high (Hirst – 9/10/09) and others that they were too low (Langabeer & Tull, Association of Realtors, Public Policy Perspectives – 9/17/09).

Most of the comments on population and employment growth focused on the allocation to respective Urban Growth Areas. Specific issues will be addressed in each Urban Growth Area review, but policy issues on allocation of growth are a county-wide issue. Some of those growth distribution issues include:

- ◆ Bellingham as Primary Population and Employment Center
 - Bellingham is the best place for growth due to water availability (Lummi Indian Business Council – 7/16/09)
 - Growth in Bellingham reduces vehicle miles traveled to employment center (Futurewise, Langabeer & Tull, Public Policy Perspectives)
 - Concern that additional growth has not been “allocated” but held in reserve (Langabeer & Tull, Public Policy Perspectives, City of Lynden)
- ◆ Growth into Small Cities and Urban Areas
 - Ferndale does not want to become a bedroom community (City of Ferndale, 9/17/09)
 - Lynden’s growth request is supported by historic patterns (Zender Thurston, 9/9/09)
 - Sumas’ growth numbers were limited by the range of the EIS, and don’t reflect the same allocation methodology for other small cities (Sumas, 9/17/09)
 - Concern that growth requests of Lynden, Ferndale and Everson are not reasonable and causes damage to agricultural resource lands (Farm Friends, 9/17/09)
 - Concern that growth into Columbia Valley encourages people to drive long distances to work, school and shopping (Futurewise, 9/17/09, Webb, oral testimony, 9/17/09)
 - Growth can be absorbed in other urban areas that are still oversized or accommodated through upzoning of existing urban areas (Futurewise, 9/17/09)
- ◆ Growth Allocation Reserves
 - Concern that UGA areas are not allocated for expected growth in Bellingham and Lynden (Zender Thurston, 9/9/09, Langabeer & Tull, 9/17/09)
- ◆ Rural Growth Allocation
 - Concern was expressed that the allocation of rural growth in the Executive proposal went from approximately 6% in the current comprehensive plan to 15% in the proposed (Mischaikov, 9/17/09)
 - The Executive proposal slows the rate of rural growth from 31.1% share of the current population to 15% of the future growth.

Options:

1. Accept the Executive's proposed growth forecast and allocation of growth to various urban areas.
2. Amend the allocation requests to include additional population for Lynden and Bellingham.
3. Amend the allocation requests to include all city and community requests.
4. Amend the population and employment forecasts (higher or lower), reallocate to urban areas and redraw Urban Growth Areas.

URBAN GROWTH AREA RESERVES

The Executive proposal includes the designation of Urban Growth Area Reserves. For ease of reference, you can find the information in the following locations:

Comprehensive Plan Amendments, Chapter One

- ◆ Table 5 (page 1-9) – Reserve Population Projections and Distribution

Comprehensive Plan Amendments, Chapter Two

- ◆ Criteria for transferring Reserve to UGA (pages 2-71 to 2-72)
- ◆ Reserve descriptions for UGAs (pages 2-72 through 2-73)
- ◆ UGA maps (showing reserve designations)

Land Capacity & Demand Results

- ◆ UGA capacity to accommodate growth in UGA and/or Reserve

Public and Agency Input On Urban Growth Area Reserves

There were several comments received regarding urban growth area reserves. Some of the comments accepted or supported these reserves, while others questioned the need or legal ability within the framework of the Growth Management Act to designate.

Concerns were expressed that Urban Growth Area Reserves are not a valid land use concept under the Growth Management Act (City of Ferndale, 9/17/09, Langabeer & Tull, 9/17/09 and others). The Western Washington Growth Management Hearings Board specifically found that the concept does not violate GMA.

“Some petitioners complained that the concept violated the GMA. We do not agree. Long range planning for a time-frame in excess of 20 years does not violate the GMA and is a laudable planning achievement. We take official notice that other states with longer histories of GMA planning than we, are experiencing problems with the proliferation of 5 acre or less lots adjacent to urban growth boundaries when the time for expansion of the UGA arrives. Contrary to some petitioners’ assertions, GMA does not require all planning to stop at the end of the 20 year period. We commend Clark County for use of what appears to be an “innovative technique” for long range planning purposes.”¹

¹ Achen, et. al., v Clark County, et. al, WWGMHB Case No. 95-2-0067, Final Decision and Order

Concerns were expressed that Urban Growth Area Reserves cannot be seen as a substitute for accommodating projected urban growth to the respective urban area (Zender Thurstson, 9/17/09, Public Policy Perspectives, 9/17/09, Langabeer & Tull, 9/17/09 and various property owners within UGA Reserves). As described earlier, the Executive proposal is that the urban areas of Lynden and Bellingham should accommodate the population held in reserve, but other issues such as resource land and watershed protection and public facility and service plans, preclude designation as an Urban Growth Area at this time.

Support for the concept of Urban Growth Area Reserves was also received. See Hirst (9/17/09), city of Bellingham (9/16/09), city of Nooksack (9/17/09), and city of Sumas partial support (9/17/09).

Options

1. Leave Urban Growth Area Reserves as proposed.
2. Remove Urban Growth Area Reserves from Lynden and Bellingham where additional population is warranted to accommodate growth. Place proposed Reserves into Urban Growth Areas.
3. Remove all (or some) Urban Growth Area Reserves and place into Urban Growth Areas.
4. Remove all (or some) Urban Growth Area Reserves and put into Rural land use category.

CAPITAL FACILITY PLANS

The Growth Management Act (36.70A.070(3)) enumerates the aspects of capital facilities planning that are required in a comprehensive plan:

“A capital facilities plan element consisting of: (a) An inventory of existing capital facilities owned by public entities, showing the locations and capacities of the capital facilities; (b) a forecast of the future needs for such capital facilities; (c) the proposed locations and capacities of expanded or new capital facilities; (d) at least a six-year plan that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes; and (e) a requirement to reassess the land use element if probable funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent.”

The Growth Management Hearings Boards have interpreted this obligation to apply at the time of designation or expansion of urban growth areas; to require that urban levels of service must be planned for the entire Urban Growth Area for the 20 year planning period (both municipal and non-municipal); to require that service provider plans to provide urban services must be incorporated into the County Comprehensive Plan; to show how needed facilities will be funded for at least 6 years and provided for over 20 years; and to include a requirement to reassess the land use element if funding falls short of the need to provide urban services.

The services required to be planned for include storm and sanitary sewers, water, street cleaning, fire and police, transit and other public utilities associated with urban areas (e.g., schools, parks)

Capital Facility Issues in Urban Growth Area Review

Comments were received from several sources regarding capital facility planning issues within the urban growth area review.

Cities commented that they have planned and made investments based on urban growth area designations that currently exist or are proposed (Lynden, Ferndale). The city of Bellingham believes that it can provide the capital facilities (stormwater) necessary to protect the water quality of Lake Whatcom.

Public and agency comments focused on the inadequacy of the capital facilities plan (Langabeer & Tull, 9/17/09, Fire District #14, 9/17/09, Caitac, 9/17/09) or on the county's responsibility to complete the capital facility planning required under Growth Management (Brownlie, Evans, Wolf & Lee, 9/10/09). Fire District #21 provided an adopted Capital Facilities Plan for their district which serves the urban areas of Blaine and Birch Bay (9/16/09).

The following is a summary of the capital facility issues within the Executive's proposal.

Sanitary Sewer

- There are not updated comprehensive sewer plans for all UGAs.
- See Draft 20-Year Capital Facilities Plan (pp. 54-81) for more detailed information relating to sanitary sewer plans.

Water Systems

- The water system plans for several UGAs do not yet plan for the full population growth allocation proposed.
- The City of Lynden and the Department of Ecology do not agree on Lynden's water rights.
- See Draft 20-Year Capital Facilities Plan (pp. 82-113) for more detailed information relating to water system plans.

Schools

- Not all school districts have capital facility plans.
- See Draft 20-Year Capital Facilities Plan (pp. 114-129) for more detailed information relating to schools.

Fire Protection

- Not all fire districts have capital facility plans.
- Fire Districts have raised concerns about their ability or conditions under which they will be able to serve several UGAs that are not associated with a city.
- There is not an adopted county-wide level of service for fire protection at this time. This is addressed in proposed Policy 4H-3 (Draft Comp Plan Amendments, p. 4-6).
- See Draft 20-Year Capital Facilities Plan (pp. 154-164) for more detailed information relating to fire protection.

Lower Level of Service for Certain County Facilities

- Reductions to level of service standards are proposed for trails, activity centers, juvenile detention, and County office space. These reductions were proposed to recognize the County's ability to fund such facilities and the changing needs relating to provision of services.
- See Draft Comp Plan Amendments, Chapter 4 (pp. 4-5 and 4-6) for more detailed information relating to County level of service standards.

Reconciliation Policy 2C-5

- There are multiple public facility and service providers serving UGAs that are at various stages of capital facility planning. Some service providers have current capital facility plans, while some do not have capital facility plans. Others have plans, but are not on a uniform time-frame for updating these plans consistent with the planning horizon of the UGA review and County Comprehensive Plan. Still others struggle with the idea of funding plan updates prior to knowing growth allocations and UGA boundaries. Therefore, the proposed comprehensive plan amendments include a policy that would facilitate reconciliation of public facility and service gaps with land use planning as part of the 7-Year Update that will be completed in 2011.
- See Draft Comp Plan Amendments, Chapter 2 (p. 2-8) for the proposed reconciliation policy.

Options:

1. Accept the proposal as drafted.
2. Amend the Capital Facility policies to ensure a consistent approach used for all Urban Growth Areas addressing capital facilities including level of service standards, reconciliation policies and role of special purpose districts.
3. Reduce all Urban Growth Areas where capital facility plans have not been completed and adopted to demonstrate adequate capital facilities to serve the proposed Urban Growth Area.
4. Delay completion of the Urban Growth Area review until all capital facility planning is completed by cities, special purpose districts and the county to demonstrate that adequate public facilities and services are available or will be served adequately.

CITY OF EVERSON URBAN GROWTH AREA

Comments regarding the Urban Growth Area proposal for Everson focused on agricultural land issues. The city supported the Executive's recommendation, including the growth allocation and Urban Growth Area Reserves.

Expansion into Agricultural Resource Lands

The Executive's recommendation includes removal of 67 acres of agricultural land of long term significance from the existing urban growth area and addition of 27 acres of agricultural land of long term significance back into the urban growth area. Testimony supported and opposed urban growth into agricultural lands.

The Executive's proposed addition of approximately 27 acres north of Stickney Island Road received support from the City of Everson. This area is largely out of the Nooksack flood plain. The proposed 27 acre addition is adjacent to a portion of the existing Urban Growth Area which the City plans to use for expansion of the existing Riverside Park, sharing the same site as the City of Everson, Sewer Treatment Plant (City of Everson, 6-8-09 UGA Proposal). City of Everson 6-8-09 Urban Growth Area Proposal indicates that this area might be a good location for a "Conservation Village" receiving density transfers out of agricultural and rural areas, and would generally contribute to the City. The City of Everson asserts that the Executive Proposal meets or exceeds no net loss of agriculture in Whatcom County. (City of Everson, 9-17-09).

Some of the areas slated for removal are within the flood plain, and less suitable for urban growth and more suitable for agriculture.

Testimony was submitted that the County should not allow Everson to expand into agricultural resource lands, and that no expansion of urban growth should occur into agricultural resource lands until the County has protected 100,000 acres of agricultural land [see Futurewise Whatcom, Cathy Lehman, 9-17-09 testimony) & (Farm Friends, Henry Bierlink 9-17-09 testimony)]. In addition, input on saving farmlands was received from Eric Hirst (9-10-09 letter), and Jeremy Eckhert (9-17-09).

Options:

1. Accept the Executive's proposed urban growth area.
2. Remove the proposed expansion of the Urban Growth Area into agricultural land (Stickney parcel).
3. Place the proposed expansion of the Urban Growth Area into an Urban Growth Area Reserve.

CITY OF NOOKSACK URBAN GROWTH AREA

Comments regarding the Urban Growth Area proposal for Nooksack focused on agricultural land, Swift Creek sediment and mineral resource lands. The City of Nooksack expressed reservations regarding the Executive's proposal, focusing in on the limited capacity of the proposed Urban Growth Area to accommodate growth due to Swift Creek sediments and need for future industrial employment land that would be allowed in the area south of Breckinridge Creek and east of the Sumas River. The city also stated that if the area south of Breckinridge Creek and east of the Sumas River continues to not be within the Urban Growth Area, that the strip of land on the east side of Sumas River should also be removed.

Expansion into Agricultural Resource Lands

Testimony was received that both supported and opposed urban growth into agricultural lands. The City of Nooksack has not proposed expansion into agricultural lands. The Executive's proposal includes removal of lands from the Urban Growth Area designation and placement of those lands into Agricultural Lands of Long Term Commercial Significance.

Input on saving farmlands was received from Farm Friends (9-17-09 letter and oral testimony), Eric Hirst (9-10-09 letter), Futurewise (9-17-09) and Jeremy Eckhert (9-17-09).

Expansion from existing designated Urban Growth Areas into agricultural lands is not a direct issue for the Urban Growth Area of Nooksack. However, if the area proposed for removal and placed into Resource Lands is reversed, then this will affect the overall supply of agricultural lands in Whatcom County designated as resource lands of long-term commercial significance.

Swift Creek Naturally Occurring Asbestos (NOA) - Sumas River Flood Plain

Portions of the existing Nooksack Urban Growth Area are affected by sediments of naturally occurring asbestos (NOA) that are transported via Swift Creek from Sumas Mountain, and into the northward flowing Sumas River, and are deposited during flood events. Concerns were raised by Planning Commissioner, Jean Melious about the public health risks posed by NOA (Melious/Osborn, 8-19-09 email). The City of Nooksack raises concerns about diminished capacity due to NOA, (City of Nooksack UGA Proposal, June 8, 2009). The Executive's proposal does not factor in Swift Creek NOA/Sumas River deposition and potential impacts to capacity because it was not proposed by the city for consideration in the Land Capacity Methodology.

Mineral Resource Lands to the Northeast

Written testimony raises concerns about the Executive's proposal to remove the southern portion of the existing Urban Growth Area and retaining the existing area to the north of Breckenridge Creek as posing a potential conflict with adjacent Mineral Resource Lands (MRL) (Lesa Starkenberg, re: Concrete Nor'West, 9-17-07 letter). Whatcom County Comprehensive Plan goals and policies and implementing regulations outline strategies to address land use conflicts.

Options:

1. Retain Urban Growth Area as proposed by Executive. Remove strip of land along east side of Sumas River south of Breckinridge Creek.
2. Place southern portion of existing UGA into Urban Reserve Status to accommodate future residential and employment needs.
3. Retain Urban Growth Area as originally proposed by city and within current comprehensive plan.

CITY OF SUMAS URBAN GROWTH AREA

Comments regarding the Urban Growth Area proposal for Sumas focused on issues relative to population and employment projections. The city requested that the Executive's recommendation be amended to include land west of Hovel Road and east of SR 9.

Population and Employment Allocations

The Executive and city proposals were limited by the bracketing established as part of the EIS scoping process. If the same methodology was used for allocation of growth to Sumas as to the small cities of Everson, Nooksack, Blaine and Ferndale, the Sumas population allocation would have been over 1,100 rather than 793 as outlined in the Executive proposal. Thus, the city is concerned that the supply of residential land is constrained and consideration should be given for including more residential capacity for the city.

The city also identified undercounting of industrial jobs in the employment data. The city has identified a future industrial area west of the Sumas Industrial District that they would like to have designated as an Urban Growth Area Reserve.

Options:

1. Accept the Executive's proposed urban growth area.
2. Amend the Executive's proposal to include the residential land west of Hovel Road into the Urban Growth Area.
3. Amend the Executive's proposal to include the residential land west of Hovel Road into the Urban Growth Area and the future industrial area west of the Sumas Industrial District into an Urban Growth Area Reserve.

CITY OF LYNDEN URBAN GROWTH AREA

Considerable input was received regarding the Urban Growth Area proposal for Lynden. Issues focused on water rights, expansion into agricultural resource lands, flooding and stormwater, population growth allocation, and capital facilities planning. The City of Lynden supported their original proposal and voiced concerns regarding the Executive's proposal.

Water Rights

There is significant debate regarding the extent of water rights available to Lynden to accommodate future urban growth. Lynden maintains that the city has sufficient water rights for the city's projected growth (Zender-Thurston, 9/9/09 and public testimony 9/17/09). The Lummi Nation states that Lynden does not have water rights for their existing population, let alone growth (Lummi Indian Business Council, 9/16/09). The Department of Ecology (9/17/09) provided a table that indicates much less water available than Lynden's calculations.

Expansion into Agricultural Resource Lands

Testimony was received that both supported and opposed urban growth into agricultural lands adjacent to Lynden. The City of Lynden's proposal includes expanding their Urban Growth Area into agricultural resource lands to the northwest of the city to the midpoint between Double Ditch Road and the Guide Meridian. There is also a smaller area (14 acres) designated agricultural in the southeastern part of the city for a total of approximately 329 acres. The Executive's proposal would extend the Urban Growth Area to Double Ditch Road (158 acres), and include the 14 acres in the southeast area. Under the Executive's proposal the Urban Growth Area Reserve would be 157 acres directly west of the proposed Urban Growth Area (and Double Ditch Road).

Lynden stated that the city has made the case for adding land to the Urban Growth Area, and that the city's proposal should be accepted by the council (Zender-Thurston, 9/09/09 and Lynden representatives' public testimony, 9/17/09). Lynden also raised issues concerning whether the area proposed for expansion meets the criteria for agricultural lands of long term commercial significance and that the area requested does not expand into the Purchase of Development Rights program target areas (Zender-Thurston, 9/17/09). Lynden states that the Executive's proposal does not provide enough land for the population increases that the city is expecting.

Input was also received that opposed the expansion into agricultural lands (Farm Friends, 9/17/09, Futurewise, 9/17/09, and Eric Hirst, 9/10/09). There was also general testimony and letters (not specific to Lynden) in the record requesting protection of Agricultural Resource Lands.

Flooding and Double Ditch Road (Pepin Creek)

The proposed Urban Growth Area addition in the northwest floods regularly from sheet flow and storm water flow from Canada. Current residential development near the proposed Urban Growth Area and within the city has been subject to flooding.

Lynden states that including the area between Double Ditch Road and the midpoint between Double Ditch Road and the Guide Meridian will allow the city to improve drainage, reduce flooding, and improve habitat in the stream (Zender-Thurston, 9/9/09). In an email from the

Department of Ecology (6/22/09, Douglas Allan), the department says that they have been cooperating with Lynden to identify remedies to flood management in the area but funding for any of these projects has not been identified yet and no commitments have been made as to which approach is most effective or financially feasible.

Population Allocation

Lynden supports their original population allocation request by stating that land in the proposed Urban Growth Area between Double Ditch Road and Benson Road should be classified as “vacant” instead of “underutilized”. Lynden states that the land is almost entirely in farming, and better fits the functional definition of vacant. This would allow for a lower “market factor” adjustment (15% instead of 25%).

Also, Lynden proposes using the single family value for persons-per-household of 2.5 rather than the 1.7 persons-per-household for multi-family housing. The default of assigning multi-family persons per household for Lynden’s Urban Growth Area is considered by Lynden to not be accurate. Lynden plans to have an overall density of 7 dwelling units per acre (which is the default value for multi-family housing), but plans to have 75% of the new dwelling units being single family.

Options:

1. Accept the Executive’s proposal for Lynden, with adjustment of the population allocation to reduce the market factor from 25% to 15% for the proposed expansion area and to assign 75% of the area as single family and 25% as multi-family for purposes of household size.
2. Accept the city’s proposed Urban Growth Area and allocation of population.²
3. Place all of the proposed expansion into an Urban Growth Area Reserve.
4. Do not amend the Urban Growth Area and adjust population allocation to fit existing Urban Growth Area.

² The city’s Urban Growth Area, even with adjustments for market factor and household size show that the area cannot accommodate the requested population. The county would need to make a finding that the city make up this deficit through infill or upzoning strategies not proposed by the city at this time.

CHERRY POINT INDUSTRIAL URBAN GROWTH AREA

There were no written or oral comments regarding the Cherry Point Industrial Urban Growth Area.