



PLANNING & DEVELOPMENT SERVICES

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MEMORANDUM

To: Planning Commission Members
From: Planning & Development Services Staff
Date: December 5, 2006
Re: Deliberations on 2005 GMA Update – Comprehensive Plan Map Amendments (UGA)

The memorandum is intended to help guide you through deliberations on Comprehensive Plan map amendment proposals seeking a change either from or to an **Urban Growth Area (UGA)** designation. Additional memos will be provided in advance of your continued deliberations on map amendments in the following order:

1. ~~Rural~~
2. ~~Urban Growth Areas (UGA)~~
3. Agricultural-NRL (Ag-NRL)
4. Open Space of Regional/Statewide Importance (OSRSI)
5. Rural Resource-NRL (RRc-NRL)
6. Forestry
7. Mineral Resource Overlay (MRO)
8. Master Planned Resort (MPR)

As with the Rural memo, this memorandum supplements the individual map amendment pages in the *Integrated SEPA/GMA Report*. It provides additional information and analysis, as necessary, to address issues raised in public testimony and correspondence during the public comment period. This report seeks to identify and elaborate on the key factors that result in a recommendation either for approval or denial.

The Group 1/Group 2 approach will not be used for the UGA requests as it was for Rural. Instead, the UGA amendments are organized, and will be presented collectively, by applicable city or town. It is likely we will return to the Group 1/Group 2 approach with future map amendment categories.

For efficiency sake, the analysis of amendments focuses on the key decision points, not necessarily on all applicable Comprehensive Plan designation criteria. This is especially true of “denial” recommendations, which focus on the key factors or ‘fatal flaw’ leading to the recommendation.

This memorandum is to be used together with the Integrated SEPA/GMA Report, specifically the maps and proposal summaries and recommendations beginning in appendix E-1. Appendix E-1 contains all of the citizen-initiated amendment proposals, denoted by a CPA05-__ label. Appendix E-2 contains the Skagit County-initiated proposals (SC05-__).

Please note: All Comprehensive Plan citations below correlate to the *Draft Comprehensive Plan*.

General Discussion

Proposals to modify Urban Growth Area (UGA) boundaries were first considered by the respective cities and towns, prior to being forwarded to the County with a recommendation from the city or town by November 15, 2004. Thirty-five of the 107 proposed map amendments affect UGAs — 29 requests to expand UGAs and 6 requests to convert existing UGA parcels to rural or resource-land designation. Many of the expansion proposals would affect lands designated Agriculture-NRL and located in the 100-year flood plain.

Existing Skagit County Code 14.08.020(5)(b) outlines the criteria required for any Comprehensive Plan Map Amendment proposing to alter UGA boundaries: *“Any proposed urban growth area boundary changes shall be supported by and dependent on population forecasts and allocated urban population distributions, existing urban densities and infill opportunities, phasing and availability of adequate services, proximity to designated natural resource lands and the presence of critical areas.”*

It is the applicant’s and affected municipality’s responsibility to make the case for UGA expansion or contraction. This is *especially* true regarding the second and third criteria above – providing information on “existing urban densities and infill opportunities,” or how the existing UGA has developed to date, and “phasing and availability of adequate services,” or the municipality’s ability to provide urban services to the subject property.

Additional UGA expansion criteria are contained in the Comprehensive Plan, chapter 2, policies 2A-1.1 and 1.2; and

Almost all of the proposed UGA map amendments lack sufficient supporting land capacity analysis to determine whether the requested modification is warranted at this time. This documentation is especially important given the *Futurewise v. Skagit County* decision, in which the Western Washington Growth Management Hearings Board found the addition of property to the Mount Vernon UGA to be non-compliant due to a lack of sufficient documentation of need (WWGMHB Case No. 05-2-0012, September 21, 2005).

The County is currently working with the cities and towns to develop a more detailed set of criteria and documentation requirements for UGA amendment proposals. This will facilitate the review of UGA amendment proposals in future annual Comprehensive Plan amendment cycles. Except in those few instances noted below, the Department does not recommend UGA modifications until those new criteria are in place, and until each municipality seeking to modify its UGA boundary has submitted adequate documentation demonstrating the need to expand or contract its UGA.

City of Anacortes

For this discussion, see Attachment 1 - letter from Ian Munce, Director of Planning and Community Development, City of Anacortes, November 8, 2004, regarding Proposed UGA Amendments: 2004/2005; and the letter from Ian Munce in the written comment volumes, p. 8.

CPA05-73 - As noted by Mr. Munce in Attachment 1, Anacortes “does not have any new Commercial/Industrial or population allocations to utilize to support the inclusion of...” the 167 acre Scimitar Ridge proposal (CPA05-94) in the City’s UGA. The Department would assert that the same holds true for the five-acre amendment CPA05-74. This is especially true given that Anacortes has not submitted any residential capacity analysis data showing how residential acreage within the existing UGA has been utilized. This analysis is required by SCC 14.08.020(5)(d) and by GMA (RCW 36.70A.110).

Anacortes has consistently asserted in discussion with the County and other municipalities through the Skagit Council of Governments that it neither wants nor can afford to accommodate additional population growth. The City has not submitted any analysis as part of the County’s 2005 GMA Update process as to where, if its UGA were to expand, this expansion would most appropriately be located.

The Department is sympathetic with the property owner’s/applicant’s concerns that expansion of the UGA to incorporate the property proposed in CPA05-74 would allow for the most efficient development of the property. However, development of the property would not be precluded by the current boundary; even with the City/County boundary where it now stands, it appears that a road could be located within the city limits to reach the western portion of the property.

At its core, the choice appears to be modifying a 20-year growth boundary to accommodate a particular subdivision proposal; or modifying the subdivision proposal to be consistent with the 20-year growth boundary. Modifying a UGA boundary to accommodate the desires of a specific development project appears to be the sort of “ad hoc” decision-making that the Western Washington Growth Management Hearings Board cautioned against in its *Futurewise vs. Skagit County* decision (05-2-0012), not the type of long-range, comprehensive planning for urban growth contemplated in the Comprehensive Plan or by the Growth Management Act.

This property may be a logical location for future expansion of the Anacortes UGA - once the UGA expansion criteria are adopted, and if Anacortes decides that it is interested in accepting an increased population allocation and identifying the most suitable areas for UGA expansion.

CPA05-94 - The Department has provided its reasoning in the first paragraph above as to why this proposal cannot be approved at this time: The City does not have any outstanding commercial/industrial or population allocation for this proposal, nor has it submitted any analysis of how land has been utilized within its current UGA.

Bayview Ridge UGA

CPA05-03 - Upon further review of the proposal, the Department has determined that its original recommendation was in error. This parcel lies within the boundary of the residential portion of the recently-approved Bayview Ridge UGA (December 5, 2006). The property is within the Bayview Ridge Residential zone (which generally corresponds with the applicant’s request for ‘Urban Residential’). No action is necessary through the 2005 GMA Update process with regard to this request.

CPA05-74 - The properties included in this request are outside the adopted boundary for the Bayview Ridge UGA. The County considered inclusion of these properties during the planning for

the expansion of the Bayview Ridge UGA but chose not to include them. The Department does not recommend altering the Bayview Ridge UGA through the 2005 GMA Update process.

City of Burlington

From 2003 through 2005, the City of Burlington conducted a comprehensive review of its UGA expansion plans. The resulting long-term plan adopted by the City Council – which has not been provided to the Department – calls for only limited expansion, to include the area surrounding Gages Slough south to the Skagit River dike, and the property desired by the Burlington-Edison School District (BESD) for a new school site (CPA05-77 and CPA05-80, discussed below). That long-term plan does not include the properties proposed by private applicants in CPA05-75, 78, and 79. The city did not submit a proposal encompassing the Gages Slough area as part of this 2005 Update process; that proposal is expected in a future update cycle. The City also did not submit a land use capacity analysis showing how lands within the current UGA are being utilized, or other analytical materials that would support UGA expansion at this time.

The City has indicated its support for the properties sought by the BESD for a new school site at Pulver and Peterson Roads – see the resolution included as Attachment 2. These properties (CPA05-77 and CPA05-80) comprise approximately 14 acres of land designated Ag-NRL. The BESD submitted demographic information with those two proposals clearly establishing the need for additional school sites within the district. However, the Department does not believe the BESD has provided adequate documentation that no other viable school sites are available outside of the Ag-NRL designation and the 100-year floodplain; this would likely be an appeals issue. In fact, the Department has worked with the BESD to locate a potential new school site within the Bayview Ridge UGA.

The Department believes removal of these two properties from the Ag-NRL designation for use as a school should only be considered as part of a comprehensive proposal from the city on its long-term growth plans. As noted above, such a proposal has not yet been submitted.

CPA05-75 - This proposal is not supported by the City or the County.

CPA05-76 - Although this property would be included in Burlington's UGA boundary as part of the city's long-term growth plan (as the Department understands it), the city has not submitted such a plan or related documentation at this time. The Department recommends denial at this time.

CPA05-77 See above discussion about school siting. The Department recommends denial at this time.

CPA05-78 This proposal is not supported by the city. The property is not adjacent to the existing UGA or city limits. The Department recommends denial.

CPA05-79 This property is designated Ag-NRL. The proposal is not supported by the city. The Department recommends denial.

CPA05-80 See above discussion about school siting. The Department recommends denial at this time.

Town of Hamilton

CPA05-104 – Skagit County is working with the Town of Hamilton, the Hamilton Public Development Authority, and numerous other planning partners on a subarea plan for the Town of Hamilton. This subarea plan will address relocation of a portion of the town out of the Skagit River floodway, as well as issues related to infrastructure, zoning, design, and land capacity. One outcome of this subarea plan will be an analysis of the Town’s commercial and industrial land needs and how the proposed 60-acre “Crown Pacific log yard” site fits into the Town’s future plans. The Department anticipates the subarea plan will be completed in time to be considered by the County in the 2007 Comprehensive Plan amendment cycle. That will be the appropriate time to consider this proposed amendment. The Department recommends denial at this time.

Town of La Conner

CPA05-93 – The Department recommends approval of the UGA expansion requested by the Town of La Connor. This proposal was originally considered as part of the 2003 Comprehensive Plan Amendment cycle. At that time, the proposal included an additional 30 acres of undeveloped land proposed for open space and passive recreational use. This portion of the proposal met with considerable public opposition. The Board of County Commissioners directed that the current, scaled-down proposal be considered as part of the 2005 Update.

The area now proposed for UGA designation has been limited to 14 acres that include existing public facilities, including the town’s sewer and storm water treatment facilities, its public works yard, and a regional fire hall. The area has “a physical identity or social connection to an existing urban environment” and is characterized by growth or development that serves the Town of La Conner, consistent with Comprehensive Plan and GMA criteria for Urban Growth Areas. The proposal would add no new development capacity to the town, therefore capacity analysis is not required.

The 14 acres does not meet the Ag-NRL designation criteria. The subject property is not farmed nor is it practically farmable. The fairly narrow strip of land is bounded on two sides by dikes, cutting it off from adjacent farmland. The ground consists of dredge spoils and tidelands. The de-designation meets two of the requirements for removing land from a natural resource designation - SCC 14.08.020(5) (d)(iii) and/or (iv), specifically an error in original designation or new information on natural resource land status.

The Department recommends removing the Ag-NRL designation; redesignating the 14-acres as UGA; and providing the Town of La Conner’s Public zoning designation to the property.

Mount Vernon

The City of Mount Vernon submitted two memorandums regarding proposed modifications to the UGA boundaries submitted as part of the 2005 Update, dated November 15, 2004, and December 28, 2004. They are included here at Attachments 3 and 4. There were 11 such UGA amendment

requests. Ultimately, the Mount Vernon City Council recommended approval of two of those amendments through the County's 2005 update – the Mount Vernon School District and Kopp/Carbert/Dikson proposals – and deferral of the remainder until the 2006 amendment cycle. The Mount Vernon School District proposal (CPA05-88) was effectively withdrawn by the School District. This was the 10-acre property whose de-designation from Ag-NRL and designation as UGA was found non-compliant by the Western Washington Growth Management Hearings Board in Case No. 05-2-0012. The school district chose not to contest restoration of the Ag-NRL designation.

CPA05-87 - The remaining amendment proposal recommended for approval by the City Council is Kopp/Carbert/Dikson (CPA05-87), located just south of the WJY Associates property at the Interstate 5/Old Highway 99 overpass. (The City Council also recommended approval of the WJY Associates proposal, CPA05-107, if it was not resolved through the 2003 amendment cycle.)

The Planning Commission has received Mount Vernon's UGA capacity analysis for the WJY compliance matter. However, those materials are not part of the record for the 2005 GMA Update as they were not available when the comment period closed on April 18, 2006. They are therefore not eligible for consideration with regard to the amendment requests listed below.

As discussed during deliberations on the WJY Associates property, the Department does not recommend approval of CPA05-87 at this time. This proposal and all others submitted as part of the 2005 Update should be considered at the same time, as part of a comprehensive review of Mount Vernon's long-term UGA expansion plans. The Department understands that the city is working on a comprehensive UGA proposal to be submitted during a future amendment cycle.

As to the proposals not supported by the City of Mount Vernon at this time, it would be inconsistent with the 2002 Framework Agreement between the County and the municipalities, the Comprehensive Plan, and the GMA to add property to a UGA against the wishes of the affected municipality. Also there is no capacity analysis in the record in support of these proposals.

CPA05-81, 82, 83, 84, 85, 86, 95, 96, and 97 - The city recommended deferral of these proposals. The Department recommends denial now, with possible reconsideration as part of a comprehensive UGA proposal from the city.

CPA05-88- This proposal is no longer active. The Mount Vernon School District accepted the Western Washington Growth Management Hearings Board's finding of non-compliance; the property has been restored to Ag-NRL.

CPA05-105 The Board of County Commissioners removed this request from the proposal before its release for public review and comment, as the property has already been annexed to the city. An adjacent property owner had proposed its removal from the UGA, contrary to the wishes of the property's owner.

CPA05-107 WJY Associates property. The property owner requested that this property be addressed through the compliance process in WWGMHB Case No. 05-2-0012, rather than through the 2005 Update.

County-Initiated Proposals

SC05-24 - This proposal corrects a zoning error affecting property owned by Food Services, Inc., which has operated at the location since 1966. The property is current zoned Urban Reserve Residential (URR). The property had County commercial zoning before the area became part of Mount Vernon UGA. The Mount Vernon Comprehensive Plan Map shows the property as commercial. The County agreed in its ordinance adopting UGA development regulation that its UGA zoning will reflect city comprehensive plan designations. The property meets the criteria for, and should be recognized as, Urban Reserve Commercial-Industrial.

SC05-51 - This proposal is linked to CPA05-107 (WJY Associates) and is no longer under consideration through the 2005 Update.

City of Sedro-Woolley

The City of Sedro-Woolley submitted a well-documented packet of materials regarding the 10 property-owner and/or city-initiated amendments to the UGA. Excerpts of the city's packet are included as Attachment 5. Those materials show that the City Council recommended eight changes to the UGA boundary – six expansions, and two contractions. The city provided supporting information for the various proposed changes, including very helpful information on urban services and critical areas. However, the city materials acknowledge that the city did not provide an analysis of how much development capacity remains within the existing UGA boundary and whether the proposed expansions and contractions are warranted. The City of Sedro-Woolley Staff Report, dated October 19, 2004, states: "A more detailed [land capacity analysis] is needed before the city can determine that additional residential land capacity is needed." The city sought to justify the additions to the UGA by showing they would be offset by a nearly equivalent amount of land being removed from the UGA, resulting in very little net change.

The Department does not believe this type of anecdotal approach would stand up to Hearings Board scrutiny. Recent Hearings Board decisions on comprehensive plan updates have required jurisdictions to document their existing UGA sizing relative to development activity, not simply account for new, incremental changes to the existing UGA. The lack of a more formal land capacity analysis is the key factor in the Department's recommendation against certain of the UGA expansion proposals that otherwise would make good planning sense.

CPA05-89, -90, and -91 - These proposals are considered together, as they are located adjacent to one another. The applicants (see especially Jim Engberg, p. 379, written comment volumes) provide a solid rationale for including the properties in the UGA: they are not designated as resource lands, they are located outside of the 100-year floodplain, and city services are located nearby. See also the City Staff Report, pages 2 – 5, for a discussion of adjacent public services.

The Department's objection comes from the fact that the city has not provided a land capacity analysis showing that UGA expansion is necessary at this time. An e-mail from former city attorney Patrick Hayden (included in materials submitted to the record by Mr. Engberg, written comment volumes, p. 383), states:

In fact, I think the City is not short on capacity, based on anecdotal information. We have increased the minimum lot size, and can still meet our population allocation goals. Thus, I think a new analysis would be a waste of money if for the sole purpose of justifying the annexation of a few lots. In addition, the sewer moratorium has slowed down growth. After it is lifted, and we get a few more houses built in this market, that may change. I suspect the City will exceed its population allocation goals. Its [sic] just too soon to prove it, given the sewer moratorium.

The city has not done its work to justify expansion of its UGA. If these amendments were approved and then challenged, the County would have no analytical information on which to defend the UGA expansion. The Department does not believe sufficient rationale is provided by the city's reasoning that the addition of certain lands and removal of others from the UGA would in effect cancel each other out.

That said, when the city is more prepared to make a case for UGA expansion for residential purposes, these properties would appear to be a logical place for UGA expansion because of the site characteristics noted above. The Department compliments Mr. Engberg for the detailed information he has submitted to the record.

CPA05-92 - Although the City Council recommends approval, the city staff report notes concerns with irregular boundaries, difficulty in providing city services, and lack of demonstrated need for additional residential land in this amount (25 acres). The Department recommends denial.

CPA05-98 - The property owners seek removal from the UGA of their land that meets the County's Ag-NRL designation criteria. The City Council recommended approval of this proposal, as does the Department. The land would be redesignated Ag-NRL consistent with adjacent properties in the County.

CPA05-99 - This was a city staff-generated proposal to add to the UGA, about which the property owner had mixed feelings. The City Council did not recommend inclusion of this property in the UGA. The Department also recommends denial (no change).

CPA05-100 - The proposal to remove this land from the UGA was initiated by Sedro-Woolley staff, based on its location in the 100-year flood plain, and difficulty of providing urban services. The property owner objected to that recommendation, and the City Council did not approve the recommendation. The Department also recommends denial (no change).

CPA05-101 - The City Council recommended addition to the UGA. The Department recommends denial on the same grounds as noted for CPA05-89, 90 and 91. Additionally, this property is located west of Brickyard Creek, which currently forms a logical physical boundary to the UGA. The proposal would jump over that boundary.

CPA05-102 The city seeks the addition of this city-owned property to the UGA to facilitate construction of a local-circulation road and a utility corridor from SR 20 to Cook Road. The Skagit County Public Works Department has serious concerns about the proposed road alignment and chose not to partner on this road project with the city. The Department shares that concern and believes construction of a new road on the outskirts of the UGA may promote additional sprawl to the west.

The Department recommends denial and that the road's location be addressed through joint transportation planning between Sedro-Woolley and Skagit County.

CPA05-103 - The City of Sedro-Woolley seeks removal of this property from the UGA; it is currently zoned as open space within the UGA. The city believes the property's inclusion in the UGA was a mapping error. The Assessor's data base shows no ownership information for this property. Because the property has no development potential associated with it, its removal would have no effect on the city's development capacity. The Department supports its removal and designation as Ag-NRL, consistent with adjacent properties in the County.

Swinomish UGA

CPA05-42 - Although modifications to the Swinomish UGA do not need to meet the same criteria as those established for municipalities, the Department recommends denial of this request. The Department recognizes that the lots within the proposal are substandard to the Rural Reserve zoning designation requirements. However, the area requested for inclusion in the UGA is not contiguous with the existing UGA boundary and therefore cannot be included individually as proposed. There is no information in the record indicating the desire of the Swinomish Tribe with regard to this proposal. The County and the Tribe both desire a collaborative approach to planning for the Swinomish UGA on a more comprehensive scale than is proposed in this application.