Exhibits received 10/4/06 for Public Hearing before the Kittitas County Board of County Commissioners for the 2006 Comprehensive Plan Map and Text Amendments
August 18, 2006

Mr. Nathan Weis  
Central Cascade Land Company  
103 S. 2nd Street  
P.O. Box 687  
Roslyn, WA 98941

RE: City of Cle Elum Comprehensive Plan Amendment Request

Dear Mr. Weis:

The City has reviewed your March 31, 2006, Application for a Comprehensive Plan Amendment request to bring ninety (90) acres of your property into the City of Cle Elum’s Urban Growth Area (UGA) for commercial and/or industrial uses.

As you know, the City is in the process of updating its Comprehensive Plan and numerous public and internal discussions have occurred to address various land use topics. The need for additional commercial and industrial lands has been identified through these discussions.

At this time, the City believes that your property is most suitable to accommodate the City’s need for additional industrial land that would be zoned either light or general industrial and thus included within the City of Cle Elum’s UGA.

The City is providing you this letter to inform you of its support to bring your property into the City’s UGA for industrial uses. As the City’s Comprehensive Plan process continues, we expect to work with you to define any additional documentation that may be needed.

The City appreciates your interest and we look forward to working with you in the months ahead.

Sincerely,

Matthew Morton  
City Planning/Building Official
NOTE: Parcels 1 through 46, inclusive, describe the current MPR; Parcel 47 describes the Miller property under review for inclusion within the MPR.

1. Map No. 20-14-11000-0007:
Lot 1A as described and or delineated on the face of that certain Survey recorded June 13, 1995 under Auditor's File No. 582255 and filed in Book 21 of Surveys, Pages 44 and 45, records of Kittitas County, State of Washington; being a portion of Section 11, Township 20 North, Range 14 East, W.M., Kittitas County, State of Washington.

2. Map No. 20-14-11000-0008:
Lot 2A as described and or delineated on the face of that certain Survey recorded June 13, 1995 under Auditor's File No. 582255 and filed in Book 21 of Surveys, Pages 44 and 45, records of Kittitas County, State of Washington; being a portion of Section 11, Township 20 North, Range 14 East, W.M., Kittitas County, State of Washington.

3. Map No. 20-14-11000-0009:
Lot 3A as described and or delineated on the face of that certain Survey recorded June 13, 1995 under Auditor's File No. 582255 and filed in Book 21 of Surveys, Pages 44 and 45, records of Kittitas County, State of Washington; being a portion of Section 11, Township 20 North, Range 14 East, W.M., Kittitas County, State of Washington.

4. Map No. 20-14-11000-0010:
Lot 4A as described and or delineated on the face of that certain Survey recorded June 13, 1995 under Auditor's File No. 582255 and filed in Book 21 of Surveys, Pages 44 and 45, records of Kittitas County, State of Washington; being a portion of Section 11, Township 20 North, Range 14 East, W.M., Kittitas County, State of Washington.

5. Map No. 20-14-11000-0005 and 20-14-11000-0013:
Lot 2B as described and or delineated on the face of that certain Survey recorded June 13, 1995 under Auditor's File No. 582255 and filed in Book 21 of Surveys, Pages 44 and 45, records of Kittitas County, State of Washington; being a portion of Section 11, Township 20 North, Range 14 East, W.M., Kittitas County, State of Washington.

6. Map No. 20-14-11000-0006 and 20-14-11000-0014:
Lot 3B as described and or delineated on the face of that certain Survey recorded June 13, 1995 under Auditor’s File No. 582255 and filed in Book 21 of Surveys, Pages 44 and 45, records of Kittitas County, State of Washington; being a portion of Section 11, Township 20 North, Range 14 East, W.M., Kittitas County, State of Washington.

7. Map No. 20-14-11000-0004 and 20-14-11000-0015:
Lot 4B as described and or delineated on the face of that certain Survey recorded June 13, 1995 under Auditor’s File No. 582255 and filed in Book 21 of Surveys, Pages 44 and 45, records of Kittitas County, State of Washington; being a portion of Section 11, Township 20 North, Range 14 East, W.M., Kittitas County, State of Washington.

8. Map No. 20-14-11000-0003 and 20-14-11000-0012:

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Exhibit #4
Date: 10-4-06
Submitted by: Steve Lethrop
9/29/2006
Lot B1 as described and/or delineated on that certain Survey as recorded September 18, 1996, in Book 22 of Surveys, Page 83, under Auditor’s File No. 199609180020, records of Kittitas County, Washington; being a portion of the East Half of the Northwest Quarter and of the Northeast Quarter of the Northeast Quarter of Section 11, Township 20 North, Range 14 East, W.M., in the County of Kittitas, State of Washington.

9. Map No. 20-14-13000-0001 and 20-14-13000-0007
Lot 1A, as described and/or delineated on the face of that certain Survey recorded May 23, 1995 under Auditor’s File No. 581730 and filed in Book 21 of Surveys, Pages 28, and 29, records of Kittitas County, State of Washington; being a portion of Section 13, Township 20 North, Range 14 East, W.M., Kittitas County, State of Washington.

10. Map No. 20-14-14000-0001 and 20-14-14000-0009
Lot 1A, as described and/or delineated on the face of that certain Survey recorded May 23, 1995 under Auditor’s File No. 581729 and filed in Book 21 of Surveys, Pages 26 and 27, records of Kittitas County, State of Washington; being a portion of Section 14, Township 20 North, Range 14 East, W.M., Kittitas County, State of Washington.

11. Map No. 20-14-14000-0002 and 20-14-14000-0010
Lot 2A, as described and/or delineated on the face of that certain Survey recorded May 23, 1995 under Auditor’s File No. 581729 and filed in Book 21 of Surveys, Pages 26 and 27, records of Kittitas County, State of Washington; being a portion of Section 14, Township 20 North, Range 14 East, W.M., Kittitas County, State of Washington.

12. Map No. 20-14-14000-0005 and 20-14-14000-0013
Lot 1B, as described and/or delineated on the face of that certain Survey recorded May 23, 1995 under Auditor’s File No. 581729 and filed in Book 21 of Surveys, Pages 26 and 27, records of Kittitas County, State of Washington; being a portion of Section 14, Township 20 North, Range 14 East, W.M., Kittitas County, State of Washington.

13. Map No. 20-14-14000-0006
Lot 2B, as described and/or delineated on the face of that certain Survey recorded May 23, 1995 under Auditor’s File No. 581729 and filed in Book 21 of Surveys, Pages 26 and 27, records of Kittitas County, State of Washington; being a portion of Section 14, Township 20 North, Range 14 East, W.M., Kittitas County, State of Washington.

14. Map No. 20-14-14000-0007
Lot 3B, as described and/or delineated on the face of that certain Survey recorded May 23, 1995 under Auditor’s File No. 581729 and filed in Book 21 of Surveys, Pages 26 and 27, records of Kittitas County, State of Washington; being a portion of Section 14, Township 20 North, Range 14 East, W.M., Kittitas County, State of Washington.

15. Map No. 20-14-14000-0008
Lot 4B, as described and/or delineated on the face of that certain Survey recorded May 23, 1995 under Auditor’s File No. 581729 and filed in Book 21 of Surveys, Pages 26 and 27, records of Kittitas County, State of Washington; being a portion of Section 14, Township 20 North, Range 14 East, W.M., Kittitas County, State of Washington.

16. Map No. 20-14-15000-0001

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Lot 1, as described and/or delineated on the face of that certain Survey recorded January 30, 2001, under Auditor's File No. 200101300009 and filed in Book 25 of Surveys, Page 223, records of Kittitas County, State of Washington; being a portion of Section 15, Township 20 North, Range 14 East, W.M., Kittitas County, State of Washington.

17. Map No. 20-14-15000-0003
Lot 3, as described and/or delineated on the face of that certain Survey recorded January 30, 2001, under Auditor's File No. 200101300009 and filed in Book 25 of Surveys, Page 223, records of Kittitas County, State of Washington; being a portion of Section 15, Township 20 North, Range 14 East, W.M., Kittitas County, State of Washington.

Lot A of that certain Survey recorded January 6, 2005, under Auditor's File No. 200501060021 and filed in Book 30 of Surveys, Pages 212 through 216, records of Kittitas County, State of Washington; being a portion of Sections 13, 14, 15 and 23, all in Township 20 North, Range 14 East, W.M., Kittitas County, State of Washington;

AND

Lot 2, as described and/or delineated on the face of that certain Survey recorded January 30, 2001, under Auditor's File No. 200101300009 and filed in Book 25 of Surveys, Page 223, records of Kittitas County, State of Washington; being a portion of Section 15, Township 20 North, Range 14 East, W.M., Kittitas County, State of Washington.

19. Map No. 20-14-23000-0003
Lot 3, as described and/or delineated on the face of that certain Survey recorded May 23, 1995 under Auditor's File No. 581723 and filed in Book 21 of Surveys, Page 19, records of Kittitas County, State of Washington; being a portion of Section 23, Township 20 North, Range 14 East, W.M., Kittitas County, State of Washington.
EXCEPT that portion of Lot 3 of said Survey lying Southerly and Westerly of the Yakima River.

20. Map Nos. 20-14-25000-0006 and 20-14-25000-0013
Lot B as described and/or delineated on the face of that certain survey recorded January 25, 2005 under Auditor's File No. 200501250008 and filed in Book 30 of Surveys, pages 234 and 235, records of Kittitas County, Washington; being a portion of Section 25, Township 20 North, Range 14 East, W.M., Kittitas County, Washington.

21. Map No. 20-14-25000-0007 and 20-14-25000-0014
Lot 3A, as described and/or delineated on the face of that certain Survey recorded May 23, 1995 under Auditor's File No. 581723 and filed in Book 21 of Surveys, Page 17, records of Kittitas County, State of Washington; being a portion of Section 25, Township 20 North, Range 14 East, W.M., Kittitas County, State of Washington.

22. Map No. 20-14-25000-0008 and 20-14-25000-0015
Lot 4A, as described and/or delineated on the face of that certain Survey recorded May 23, 1995 under Auditor's File No. 581723 and filed in Book 21 of Surveys, Page 17, records of Kittitas County, State of Washington; being a portion of Section 25, Township 20 North, Range 14 East, W.M., Kittitas County, State of Washington.

23. Map No. 20-14-25000-0002
Lot 1B, as described and/or delineated on the face of that certain Survey recorded May 23, 1995 under Auditor's File No. 581723 and filed in Book 21 of Surveys, Page 17, records of Kittitas County, State of Washington; being a portion of Section 25, Township 20 North, Range 14 East, W.M., Kittitas County, State of Washington.

24. Map No. 20-14-25000-0003 and 20-14-25000-0010
Lot 2B, as described and/or delineated on the face of that certain Survey recorded May 23, 1995 under Auditor's File No. 581723 and filed in Book 21 of Surveys, Page 17, records of Kittitas County, State of Washington; being a portion of Section 25, Township 20 North, Range 14 East, W.M., Kittitas County, State of Washington.

25. Map No. 20-14-25000-0004 and 20-14-25000-0011
Lot 3B, as described and/or delineated on the face of that certain Survey recorded May 23, 1995 under Auditor's File No. 581723 and filed in Book 21 of Surveys, Page 17, records of Kittitas County, State of Washington; being a portion of Section 25, Township 20 North, Range 14 East, W.M., Kittitas County, State of Washington.

26. Map No. 20-14-25000-0005 and 20-14-25000-0012
Lot 4B, as described and/or delineated on the face of that certain Survey recorded May 23, 1995 under Auditor's File No. 581723 and filed in Book 21 of Surveys, Page 17, records of Kittitas County, State of Washington; being a portion of Section 25, Township 20 North, Range 14 East, W.M., Kittitas County, State of Washington.

Lot 1B, as described and/or delineated on the face of that certain Survey recorded May 23, 1995 under Auditor's File No. 581720 and filed in Book 21 of Surveys, Pages 10 and 11, and as amended by that certain Amended Survey recorded October 11, 1996 under Auditor's File No. 199610110005 and filed in Book 22 of Surveys, Pages 96 and 97, records of Kittitas County, State of Washington; being a portion of Section 30, Township 20 North, Range 15 East, W.M., Kittitas County, State of Washington.

Lot 2B, as described and/or delineated on the face of that certain Survey recorded May 23, 1995 under Auditor's File No. 581720 and filed in Book 21 of Surveys, Pages 10 and 11, and as amended by that certain Amended Survey recorded October 11, 1996 under Auditor's File No. 199610110005 and filed in Book 22 of Surveys, Pages 96 and 97, records of Kittitas County, State of Washington; being a portion of Section 30, Township 20 North, Range 15 East, W.M., Kittitas County, State of Washington.

Lot 3B, as described and/or delineated on the face of that certain Survey recorded May 23, 1995 under Auditor's File No. 581720 and filed in Book 21 of Surveys, Pages 10 and 11, and as amended by that certain Amended Survey recorded October 11, 1996 under Auditor's File No. 199610110005 and filed in Book 22 of Surveys, Pages 96 and 97, records of Kittitas County, State of Washington; being a portion of Section 30, Township 20 North, Range 15 East, W.M., Kittitas County, State of Washington.

30. Map No. 20-15-30000-0012
Lot 4B, as described and/or delineated on the face of that certain Survey recorded May 23, 1995 under Auditor's File No. 581720 and filed in Book 21 of Surveys, Pages 10 and 11, and as amended by that certain Amended Survey recorded October 11, 1996 under Auditor's File No. 199610110005 and filed in Book 22 of Surveys, Pages 96 and 97, records of Kittitas County, State of Washington; being a portion of Section 30, Township 20 North, Range 15 East, W.M., Kittitas County, State of Washington.
31. Map No. 20-15-31020-0003
Lot 1 as described and/or delineated on the face of that certain Survey recorded June 13, 1995 under Auditor’s File No. 582256 and filed in Book 21 of Surveys, Pages 46 and 47, records of Kittitas County, State of Washington; being a portion of the North Half of Section 31, Township 20 North, Range 15 East, W.M., Kittitas County, State of Washington;

EXCEPT: Any portion thereof as conveyed to the State of Washington by deed dated February 25, 1999, recorded March 12, 1999 under Kittitas County Auditor’s File No. 199903120019 described as follows:

All that portion of the hereinafter described Tract “A” lying southerly of a line beginning at a point opposite Highway Engineer’s Station (hereinafter referred to as HES) 432 + 00 on the LW Line Survey of SR 90, Easton to Cle Elum and 300 feet northerly therefrom;
Thence easterly parallel with said LW Line Survey to a point opposite HES 446 + 25;
Thence southerly to a point opposite said HES 446 + 25 and 110 feet northerly therefrom;
Thence easterly to a point opposite HES 450 + 00 on said LW Line Survey and 90 feet northerly therefrom Thence easterly parallel with said LW Line Survey to a point opposite HES 456 + 00 and the end of this line description.

TRACT “A”
Lots 1 and 2, as described and/or delineated on the face of that certain survey recorded June 13, 1995 under Auditor’s File No. 582256 in Book 21 of Surveys, pages 46 and 47, records of Kittitas County, State of Washington; being a portion of the North Half of Section 31, Township 20 North, Range 15 East, W.M., EXCEPT that portion of said Lot 2 lying within the Northeast Quarter of Section 31.

Lot 2 as described and/or delineated on the face of that certain Survey recorded June 13, 1995 under Auditor’s File No. 582256 and filed in Book 21 of Surveys, Pages 46 and 47, records of Kittitas County, State of Washington; being a portion of the North Half of Section 31, Township 20 North, Range 15 East, W.M., Kittitas County, State of Washington;

EXCEPT any portion thereof lying easterly of the westerly margin of Bullfrog Road as established by that Agreement, Dedication Deed and Slope and Drainage Easement recorded under Auditor’s File No. 20060118001.

AND EXCEPT: Any portion thereof as conveyed to the State of Washington by deed dated February 25, 1999, recorded March 12, 1999 under Kittitas County Auditor’s File No. 199903120019 described as follows:

All that portion of the hereinafter described Tract “A” lying southerly of a line beginning at a point opposite Highway Engineer’s Station (hereinafter referred to as HES) 432 + 00 on the LW Line Survey of SR 90, Easton to Cle Elum and 300 feet northerly therefrom;
Thence easterly parallel with said LW Line Survey to a point opposite HES 446 + 25;
Thence southerly to a point opposite said HES 446 + 25 and 110 feet northerly therefrom;
Thence easterly to a point opposite HES 450 + 00 on said LW Line Survey and 90 feet northerly therefrom Thence easterly parallel with said LW Line Survey to a point opposite HES 456 + 00 and the end of this line description.

TRACT “A”

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Lots 1 and 2, as described and/or delineated on that certain survey recorded June 13, 1995 under Auditor’s File No. 582256 in Book 21 of Surveys, pages 46 and 47, records of Kittitas County, State of Washington; being a portion of the North Half of Section 31, Township 20 North, Range 15 East, W.M., EXCEPT that portion of said Lot 2 lying within the Northeast Quarter of Section 31.

TOGETHER WITH that part of the Northwest Quarter of Northeast Quarter (NW ¼ of NE ¼) of Section Thirty-One (31) in Township Twenty (20) North of Range Fifteen (15) East of the Willamette Principal Meridian, described as follows: Commencing at the point of intersection of the easterly line of the Good Luck Lode Mining Claim, U.S. Mineral Survey No. 998, with the north line of said Section Thirty-One (31), said point of intersection being sixty-six and fifty-four hundredths (66.54) feet distant easterly from the quarter corner on said north line of Section Thirty-One (31); thence South thirty degrees fifteen minutes West (South 30°15’ West) along said easterly line of Good Luck Lode Claim one hundred thirty-one and eight tenths (131.8) feet, more or less, to the West line of said Northwest Quarter of Northeast Quarter (NW ¼ of NE ¼) of Section Thirty-One (31); thence South along said West line of Northwest Quarter of Northeast Quarter (NW ¼ of NE ¼) of Section Thirty-One (31); thence South along said West line of Northwest Quarter of Northeast Quarter (NW ¼ of NE ¼) one hundred eighty-six and two tenths (186.2) feet, more or less, to a point three hundred (300) feet South of the Northwest corner of said Northwest Quarter of Northeast Quarter (NW ¼ of NE ¼); thence East a right angles to last described course to the westerly line of the right of way for State Road No. 2, as the same is now located and constructed, said westerly line of right of way being thirty (30) feet distant westerly measured at right angles from the centerline of said State Road No. 2 as now constructed; thence northerly along said westerly line of right of way to its intersection with said north line of Section thirty-one (31); thence West along said North line of Section Thirty-One (31) to the place of beginning; TOGETHER WITH that portion of Bullfrog Road as vacated by Kittitas County Resolution No. 2005-174 and conveyed by deed recorded under Kittitas County Auditor’s File No. 200601188001, which accrues by operation of law.

33. Map No. 20-15-19000-0021
Lot C, of that certain Survey recorded August 11, 2005, under Auditor’s File No. 200508110028 and filed in Book 31 of Surveys, Pages 158-161, records of Kittitas County, State of Washington; being a portion of Section 19, Township 20 North, Range 15 East, W.M., Kittitas County, State of Washington.

34. Map No. 20-15-19000-0020 (Resort Lodge)
Lot B, of that certain Survey recorded August 11, 2005, under Auditor’s File No. 200508110028 and filed in Book 31 of Surveys, Pages 158-161, records of Kittitas County, State of Washington; being a portion of Section 19, Township 20 North, Range 15 East, W.M., Kittitas County, State of Washington.

Lot A, of that certain Survey recorded August 11, 2005, under Auditor’s File No. 200508110028 and filed in Book 31 of Surveys, Pages 158-161, records of Kittitas County, State of Washington; being a portion of Section 19, Township 20 North, Range 15 East, W.M., Kittitas County, State of Washington.

Lots 1A, 2A, 3A, 4A, 1C, 2C, 3C, 4C, 1D, 2D, 3D and 4D as described and delineated on that amended Record of Survey recorded in Book 22 of Surveys, Pages 96 and 97, under Auditor’s File No. 199610110005, situate in Section 30, Township 20 North, Range 15 East, W.M., Kittitas County, Washington;
EXCEPT any portion thereof lying easterly of the westerly line of the plat of “MountainStar Division 1A” as recorded in Volume 8 of Plats, Pages 241 through 274, inclusive, under Auditor’s File No. 200308210002;

AND EXCEPT any portion thereof lying southerly of the northerly margin of Bullfrog Road as established by that Agreement, Dedication Deed and Slope and Drainage Easement recorded under Auditor’s File No. 200601180001.

37. Phase 1 Division 1 - Map Nos. 20-15-29050-misc
The plat of MOUNTAINSTAR PHASE 1, DIVISION 1 (an Alteration of MountainStar Division 1A), in the County of Kittitas, State of Washington, as per plat thereof recorded in Book 10 of Plats, pages 12 through 45, records of Kittitas County, Washington.
TOGETHER WITH those portions of Bullfrog Road as vacated by Kittitas County Resolution No. 2005-174 and conveyed by deed recorded under Kittitas County Auditor’s File No. 200601180001, which accrue by operation of law.

NOTE: Tract Z-1 and Lot 248 re-platted as Phase 1 Division 4

38. Phase 1 Division 2 - Map Nos. 20-15-19050-misc
The plat of MOUNTAINSTAR PHASE 1, DIVISION 2 (Plat Alteration), in the County of Kittitas, State of Washington, as per plat thereof recorded in Book 9 of Plats, pages 157 through 187, records of Kittitas County, Washington.

39. Phase 1 Division 3 - Map Nos. 20-15-20058-misc
The plat of SUNCADIA, PHASE 1 DIVISION 3, in the County of Kittitas, State of Washington, as per plat thereof recorded in Book 9 of Plats, pages 94 through 120, records of Kittitas County, Washington.

40. Phase 1 Division 4 - Map Nos. 20-15-29051-misc
The plat of SUNCADIA PHASE 1 DIVISION 4, in the County of Kittitas, State of Washington, as per plat thereof recorded in Book 10 of Plats, pages 50 through 73, records of Kittitas County, Washington.

41. Phase 1 Division 5 - Map Nos. 20-15-19051-misc
The plat of SUNCADIA - PHASE 1 DIVISION 5, in the County of Kittitas, State of Washington, as per plat thereof recorded in Book 10 of Plats, pages 103 through 109, records of Kittitas County, Washington.

The plat of SUNCADIA PHASE 2 DIVISION 2, in the County of Kittitas, State of Washington, as per plat thereof recorded in Book 10 of Plats, pages 170 through 183, records of Kittitas County, Washington.

43. Phase 3 Divisions 1-5 - Map Nos. 20-14-24050-misc
The plat of SUNCADIA – PHASE 3 DIVISIONS 1 TO 5 (TUMBLE CREEK), in the County of Kittitas, State of Washington, as per plat thereof recorded in Book 9 of Plats, pages 51 through 78, records of Kittitas County, Washington.

NOTE: Tracts Z-2, Z-3, Z-4 and Z-5 re-platted within Phase 3 Divisions 6-9
Tract Z-1 re-platted as Phase 3 Division 11 and Division 12

44. Phase 3 Divisions 6-9 - Map Nos. 20-14-24051-misc and 20-14-14050-misc

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The plat of SUNCADIA – PHASE 3 DIVISIONS 6 TO 9 (TUMBLE CREEK), in the County of Kittitas, State of Washington, as per plat thereof recorded in Book 9 of Plats, pages 190 through 220, records of Kittitas County, Washington.

45.  Phase 3 Division 11 - Map Nos. 20-14-23050-misc
The plat of SUNCADIA – PHASE 3 DIVISION 11 (TUMBLE CREEK), in the County of Kittitas, State of Washington, as per plat thereof recorded in Book 9 of Plats, pages 245 through 251, records of Kittitas County, Washington.

NOTE: Tract Z-1 replatted as Phase 3 Division 12

46.  Phase 3 Division 12 - Map Nos. 20-14-23051-misc
The plat of SUNCADIA – PHASE 3 DIVISION 12 (TUMBLE CREEK), in the County of Kittitas, State of Washington, as per plat thereof recorded in Book 10 of Plats, pages 121 through 126, records of Kittitas County, Washington.
Property subject to inclusion in MPR through 2006 Comprehensive Plan Amendment.

Parcels A, B, D and E of that certain Survey as recorded January 29, 1999, in Book 24 of Surveys, page 10, under Auditor's File No. 199901290041, records of Kittitas County, Washington; being a portion of the East Half of the Southwest Quarter and the West Half of the Southeast Quarter of Section 18, Township 20 North, Range 15 East, W.M., in the County of Kittitas, State of Washington.
AND
Portion of Parcel C of that certain Survey as recorded January 29, 1999, in Book 24 of Surveys, page 10, under Auditor's File No. 199901290041, records of Kittitas County, Washington; being a portion of the East Half of the Southwest Quarter and the West Half of the Southeast Quarter of Section 18, Township 20 North, Range 15 East, W.M., in the County of Kittitas, State of Washington;
EXCEPT that portion of the Southeast Quarter of the Southwest Quarter of Section 18, Township 20 North, Range 15 East, W.M., in the County of Kittitas, State of Washington, more particularly described as follows:
Commencing at the South Quarter corner of said Section 18;
thence North 89°34'40" West along the South line of said Section, 407.42 feet to the point of beginning;
thence continuing North 89°34'40" West along said South line, 380.00 feet, more or less, to the West line of said Southeast Quarter of the Southwest Quarter;
thence North 00°46'03" East along said West line, 390.00 feet;
thence leaving said West line, South 43°39'24" East, 542.88 feet to the point of beginning.
Exhibit 5: Large Map submitted 10/4/06 by Steve Lathrop available at CDS Office for review
Ellensburg UGA Expansion

Request

✦ To expand the Ellensburg Urban Growth Area (UGA) boundary and requesting the City of Ellensburg to support the inclusion of the following parcels:
  - 18-18-27020-0049 (292.18 ac.)
  - 18-18-27020-0048 (32.77 ac.)
  - 18-18-27020-0043 (25.77 ac.)
  - 18-18-27020-0042 (30.00 ac.)
  - 18-18-27020-0041 (15.77 ac.)
  - 18-18-27020-0040 (8.00 ac.)
✦ This Comp Plan amendment would add an additional 304.49 acres to the western boundary of the Ellensburg UGA
✦ The subject property is adjacent to the Ellensburg UGA

Parcel Map

Zoning Map

✦ The following slides will discuss the north, east, south, and west boundaries of the City of Ellensburg UGA and the current growth pattern along with the advantage or disadvantage of expanding the urban growth boundary in each of these directions.

Northern Boundary

✦ Limiting factors
  - Bowers Field Airport Overlay Zone
  - Wetland Areas

Exhibit # 6
Date: 10-4-06
Submitted by: Chad Bella
Bowers Field Airport Overlay

- It was created to protect Bowers Field and the surrounding homeowners
- Limits the land uses in the area
- Urban Density is limited due to the overlay zones.

Airport Overlay Zones

- Zone 3 (Inner Turning Zone)
  - 4.) “Inside the existing Ellensburg Urban Growth Area (UGA) for lands zoned Agricultural-3 the average density will be one dwelling unit per three acres on the property at the date of adoption of this ordinance [July 17, 2001].”
  - 5.) “Inside the existing Ellensburg Urban Growth Area (UGA) for lands zoned Suburban the average density will be one dwelling unit per acre on the property at the date of adoption of this ordinance [July 17, 2001].”

- Zone 6 (Airport Operations Zone)
  - 3.) “Inside the existing Ellensburg Urban Growth Area (UGA) the average density will be one dwelling unit per one acre on the property at the date of adoption of this ordinance [July 17, 2001].”

Airport Overlay Map

Wetlands

- National Inventory Wetland Map
- Just outside of the overlay zone there is land suitable for higher density but is limited by existing wetlands.

Land Inventory Map from the City of Ellensburg

- Currently comprised of smaller parcels
  - This makes it difficult to expand urban services to all of the individually owned parcels.
  - This further supports the City of Ellensburg’s consultant statement on page 41 under the Urban Growth Area section in Chapter 4—Land Use of Ellensburg’s comprehensive plan final draft as published on September 12, 2006.

Eastern Boundary
Ellensburg Comprehensive Plan – 2006 Update

"Some developed areas are excluded from the UGA, notably to the east of town, because they were subdivided to near urban intensity but are not likely to become any more intense than they now are. Residents in these areas have voiced little interest in becoming annexed into the City, and the City has little motivation now to entice them to do so."

Please refer to Chapter 4 – Land Use Pg. 41

Eastern Boundary Parcel Map

Land Inventory Map from the City of Ellensburg

Southern Boundary

• Yakima River Floodplain and Floodway
  - The floodplain and floodway are sensitive areas that should be retained and protected
  - This further supports the City of Ellensburg’s consultant statement on page 42 under the Urban Growth Area section in Chapter 4 – Land Use of Ellensburg’s comprehensive plan final draft as published on September 12, 2006.

Ellensburg Comprehensive Plan – 2006 Update

"The City encourages an increase in density in specific areas, preserving and conserving ecologically sensitive land, and pacing expansion into the UGA to match the City’s ability to provide services."

Please refer to Chapter 4 – Land Use Pg. 42

Floodway Map

3
Western Boundary
- Vicinity Map
- Water
- Sewer
- Suburban Zoned Property
- Large amount of acreage

Water
- Water services currently exist along Dry Creek Road with a 24-inch main for water
  - 24" main runs along Highway 10 to one of the main water sources for the City
  - This allows for easy expansion of water services
  - Currently a proposal for a 375 unit residential development is proposed at the edge of the UGA boundary. This development will be required to extend city water along Besler Road to the proposal.

Sewer
- Sewer capabilities specifically exist to the south of the subject property and along Highway 10
  - Currently residential development is occurring in this location
  - There is currently a proposal for a 375 plus residential development at the edge of the uga boundary. This development will be required to extend city sewer north along Reece Creek Road.
Suburban Zoning

- Proposal includes 112.31 acres of land zoned Suburban
- The inclusion of land within an urban growth area indicates that the land will be developed at an urban density within the next 20 years. This land will eventually transition to a higher urban residential land use.
- The Suburban zone, which allows 1 unit per 1 acre is a transitional zone to higher urban residential density, therefore this transition zone needs to be within the urban growth area.

Large Amount of Acreage

- This proposal is for 6 parcels totaling 304 acres. This land is not broken down into small individual parcels, therefore facilitating the future planning and expansion of infrastructure throughout these properties.
- Affordable/Attainable housing. The landowner is also willing to dedicate a minimum of five percent of this land to affordable/attainable housing within the Ellensburg area.

Summary

As presented in the aforementioned slides, the hardships, environmental constraints, and existing parcelization reflects the limitations of land within the current UGA that will not provide for the next 20 year growth period.

We feel that our request of 304 acres to be included into the UGA is appropriate and will help meet the projected acreage as mentioned by the City of Ellensburg's Consultant.

The Ellensburg City Council voted to recommend approval of this application to the KC BOCC with a 5-1 vote of approval and one abstention.
To: Kittitas County Commissioners  
Subject: 06-13 UGA addition  
Date: October 3, 2006

I am speaking to support both the County Planning Commission and the Ellensburg Planning Commission decision to deny the 06-13 application for the addition of 304 acres to the current 4,590 acre Ellensburg’s UGA.

I am representing myself. For some perspective concerning my views, let me point out that I have been associated with land use issues dating back to 1959, when I was appointed to the Ellensburg Planning Commission. Since then I have served on a variety of commissions, boards and committees at the city, county, regional and state level related to land use matters. Among these are the Kittitas County Agricultural Land Use Task Force, the Kittitas County Shorelines Management Committee, the Yakima Basin Citizens Committee, the Washington Forest Practices Appeals Board, and the Ellensburg Downtown Task Force, on which I am currently serving.

1. Ellensburg’s present UGA is 4,590 acres, 330 acres larger than the city’s 4,260 acre incorporated area which accommodates a population of 16,000.
2. There is presently vacant land within the city limits that awaits residential development.
3. The western edge of the proposed UGA lies nearly 2 mi from the western edge of present city limits.
4. There are some 300 undeveloped UGA acres between the eastern edge of the proposed UGA and the city limits.
5. Consultants to the current revision of Ellensburg’s comprehensive plan state that Ellensburg’s projected population growth during the next quarter century can be easily accommodated within the present city limits and its present UGA area.
6. Furthermore, they project that under their scenario for least dense residential development, Ellensburg will by 2025 need 778 additional acres of land for residential purposes, i.e. 17% of the present UGA acreage. For mixed density residential growth, they project the need to be 558 acres or 12% of the present UGA acreage.

As stated in the city’s publication, Town Talk, “The vision [for Ellensburg] is a desire to manage projected growth in a way that maintains Ellensburg as a small, compact, stable, traditional community...” To fulfill that vision, it is essential that Ellensburg to pursues policies
that encourage infilling of currently available land and that enhance compactness and help to provide a pedestrian friendly community. The more land that is available, the less the incentive for compact development.

Present Ellensburg policy is stated to “...encourage pacing expansion into the UGA to match the city’s ability to provide services.” There are 4,590 UGA acres to be “paced” over the next 25 years. Should these begin to appear to be inadequate to meet the city’s needs, additional UGA increments may be added during that period.

On Oct.2 the Ellensburg City Council stated its disagreement with the County’s and its own Planning Commissions’ recommendations as well as with its Comprehensive Plan Consultant when they voted to request the County to allow the applicant to add 304 acres to the city’s current UGA.

In reaching their decision, however, the Council failed to follow the GMA’s UGA rules which call for:
1. “Prior to expanding the UGA, the record must contain a land capacity analysis showing how much additional land is needed to accommodate the projected population.”
2. A staff report to show how much additional residential will be provided by the expansion or what the proposed development densities will be.
3. A discussion or staff report of what the demand for urban services will be.
4. A discussion or staff report of how adequate public facilities will be provided.

With all of the preceding information in mind, I respectfully request the Kittitas County Board of Commissioners to accept the recommendations of their Planning Commission and to deny the UGA addition referenced in 06-13.

Thank you.

[Signature]
October 3, 2006

David Bowen, Chairman
Board of Kittitas County Commissioners
Kittitas County Courthouse
205 W. 5th, Suite 108
Ellensburg, WA 98926

RE: Proposed City of Ellensburg Comprehensive Plan Amendment 06-03 and
Proposed Kittitas County Comprehensive Plan Amendment 06-13
Ellensburg UGA expansion west of Reecer Creek Road

Dear Chairman Bowen and Fellow Commissioners:

Pursuant to the County-Wide Planning Policies, City’s are to develop the record for UGA boundary requests and UGA land use designation requests, and are to forward that record along with a recommendation to the County Commissioners for final action. Please accept this letter and attachments as the City of Ellensburg’s record submittal and formal recommendation for approval of proposed Kittitas County Comprehensive Plan Amendment 06-13 that would add some 304.49 acres of unincorporated land west of Reecer Creek Road into the Ellensburg Urban Growth Area.

The City’s record for this amendment shows the following:

- notice of both Planning Commission and City Council public hearings on the matter was sent to all property owners of record within the proposed area and within 300-feet beyond the proposed area.
- the Ellensburg Planning Commission held a public hearing on September 14, 2006 that was then continued to September 21, 2006 and took testimony regarding the proposed amendment.
- the Planning Commission then deliberated and moved to recommend to City Council that the proposed amendment should be denied because there has not been a detailed analysis of UGA land needs for expansion.
- the Ellensburg City Council held a public hearing on October 2, 2006 and took additional testimony regarding the proposed amendment.
- City Council then deliberated and moved 5-1 with 1 abstention to recommend that the County Commissioners approve the proposed amendment. Councilmember’s discussion in support of recommending approval found that:
  - since adoption of the current UGA boundary in 1997, the City has annexed large areas of the unincorporated UGA which have been developed, and those areas need to be replaced in the UGA land inventory in order to accommodate the projected 20-year population growth.
  - the unincorporated property in question is just north of the current City Limits at the West Interchange area and is suitable for inclusion in the UGA.
the applicant has indicated that the property will be developed either according to City standards if it is in the UGA or by County standards on 1-acre, 3-acre and 20-acre lots if it is not included in the UGA, and City Council believes that it is very important for the City to have some influence on how this area develops now, rather than later after it has been broken up into numerous small parcels that make urban densities difficult to create.

the applicant has made a good argument that large areas of the “available” land in the current unincorporated UGA are not readily developable due to environmental constraints such as wetlands and the Yakima River corridor, limited densities to the north due to the Airport Overlay Zone, and pre-existing small parcel patterns to the east that make extension of roads and utilities difficult and expensive, and urban densities difficult to realize.

In order to delineate a logical UGA boundary in that area, the Council is further recommending that this UGA expansion request be enlarged slightly to include the two small areas of land between Reecer Creek Road and the applicant’s property. SEE Attached Map. Council recommends that all of the unincorporated land west of Reecer Creek Road over to Faust Road (if it were extended north) and between Bowers Road (if it extended west of Reecer Creek Road) down to Old Highway Ten should be included in the Ellensburg UGA. Council’s discussion in support of that recommendation found that:

- to not include those two small areas would result in creation of an unincorporated island of non-UGA land inside the UGA, as well as in irregular UGA boundary, and that makes no sense
- property owners in those two small areas that were not included in the original expansion request were notified of the proposal and the public hearings
- one property owner immediately west of Reecer Creek (Kuhn) is opposed to inclusion in the UGA
- two adjoining property owners immediately west of Reecer Creek (Cordner and Keaton) are in favor of inclusion in the UGA.

The appropriate future land use designation for this UGA expansion area under current terminology would be “Low Density Residential”, however the City is proposing to change that future land use category designation to “Mixed Residential” as part of its 10-year Comprehensive Plan update that should be completed later this year.

Sincerely,

Mike Smith, Senior Planner

encls. 1 copy of record
3 copies of recommendation transmittal letter

cc: Kittitas County Community Development Services (recommendation transmittal letter only)
PROPOSED AMENDMENT 06-13
TO MAKE A UNIFORM UGA BOUNDARY
CITY COUNCIL RECOMMENDS THAT THE
SHADeD AREAS BE INCLUDED IN THIS
UGA EXPANSION REQUEST.
EXHIBIT ADDENDUM
FOR
2006 ANNUAL COMPREHENSIVE PLAN AMENDMENT
PUBLIC HEARING
CITY COUNCIL REGULAR MEETING OCTOBER 2, 2006
COUNCIL CHAMBERS
414 N. ANDERSON, ELLensburg, WA

NOTE: Due to time constraints, no official minutes of the Council Public Hearing or its motion to recommend approval of the proposed UGA expansion are available for inclusion in this record. The items below represent the City’s official record for proposed amendment 06-03 only. The page numbers reflect their location in the official record established for all of the proposed amendments considered by City Council. The other proposed amendments are not relevant to proposed amendment 06-03 or to Council’s recommendation to the County Commissioners on that proposed UGA expansion and they have been omitted here.

<table>
<thead>
<tr>
<th>PAGE #</th>
<th>EXHIBIT INDEX</th>
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<tbody>
<tr>
<td>15</td>
<td>06-03 Amend the Ellensburg UGA Land Use Map to expand the UGA Boundary to the northwest - west of Reecer Creek Road and north of Old Highway Ten.</td>
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<tr>
<td>15-28</td>
<td>A-3a Comprehensive Plan Amendment Proposal Application</td>
</tr>
<tr>
<td></td>
<td>• Letter of explanation from applicant</td>
</tr>
<tr>
<td></td>
<td>• Exhibit A Map showing proposed UGA expansion area with current zoning and future land uses</td>
</tr>
<tr>
<td></td>
<td>• Exhibit B page 10 from City of Ellensburg Draft Comprehensive Plan (dated December 2005) detailing projected 20-year population for Ellensburg and containing a chart detailing a Land Supply Summary by Land Use Scenario</td>
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<td></td>
<td>• Exhibit C Conference of Governments (COG) proposed population growth allocation formula through 2025 and COG Minutes for April 26, 2006 meeting at which population growth allocation formulas were adopted</td>
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<tr>
<td></td>
<td>• Exhibit D Map showing floodplain in UGA area south of City along Yakima River</td>
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<td>• Exhibit E Kittitas County Code page showing Use Table for the Airport Overlay Zone with map of Zone</td>
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<td>• Exhibit F Map showing current City Sewer service in proposed expansion area</td>
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<td></td>
<td>• Exhibit G Map showing current City Water service in proposed expansion area</td>
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<tr>
<td>29</td>
<td>A-3b City created Map of Area</td>
</tr>
<tr>
<td>30</td>
<td>A-3c Table 1, page 13 of City of Ellensburg Draft Comprehensive Plan Supplemental Environmental Impact Statement (SEIS) – Land Supply Summary by Land Use Scenario</td>
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</table>

(NOTE: This document had not been released to the public at time of Agenda Report preparation. It reflects a change from the earlier Table in that the previous High/Low/Medium Density categories have been changed to High and Mixed Residential Density categories. The conclusion of the consultant is the same – The UGA is sufficient in size to accommodate Ellensburg’s growth to approximately 23,000 people over the next 20-years. |

31     | A-3d City produced Map showing general areas of undeveloped property within the current UGA. It does not reflect any environmental or geographical constraints that may exist on the future development of those areas and it does not include any re-development potential of already developed areas in the City. |
PAGE #  EXHIBIT INDEX
32  A-3e  September 11, 2006 letter from Attorney Slothower indicating that his clients, the Sinclair family, are property owners directly north of the proposed UGA expansion request and are desirous of also having their land included in the UGA once they have successfully had the property removed from the Kittitas County Commercial Agriculture land use designation.
33  A-3f  Draft Comp Plan Table 2.6 – Land Supply Summary by Land Use Scenario submitted by City Planning Staff. The Table is taken from the Draft Comp Plan released to the public September 15, 2006.
34  A-3g  Applicant’s PowerPoint presentation hard copy entitled “Ellensburg UGA Expansion” presented at the Planning Commission public hearing. The packet of materials also included:
   • a “Wetland Stream Analysis – Pearson Property, Ellensburg, WA” prepared for the applicant by B-12 Wetland Consulting, Inc.
   • a “Wetland Stream Analysis – Dry Creek Property, Ellensburg, WA” prepared for the applicant by B-12 Wetland Consulting, Inc.
   • pages 41-42 of the Ellensburg Comprehensive Plan – 2006 Update relating to the Urban Growth Area
   • Copy of the Kittitas County Suburban Zoning District
   • Table titled “FIVE PERCENT DEDICATED TO AFFORDABLE/ATTAINABLE HOUSING”
   • August 25, 2006 letter from Ellensburg School District No. 401 Superintendent Glenewinkel to Patrick Deneen indicating that he has been authorized to enter into negotiations with Mr. Deneen for the purpose of purchasing property to locate a new middle school and elementary school on Mr. Deneen’s property west of Reeceer Creek Road across from Bender Road.
   • Figure 2 (Sheet 1) of the Ellensburg UGA Wetland Inventory
   • Page 44 of the Ellensburg Comprehensive Plan – 2006 Update relating to Industrial Land Use.
73  A-3h  Kittitas County Assessor Property Summary/Parcel Maps and Kittitas County Treasurer Property Tax Records for the Basil Sinclair property (Parcel No. 18-18-21040-0006)
79  A-3i  Kittitas County Assessor Property Summary/Parcel Maps and Kittitas County Treasurer Property Tax Records for the Arthur Sinclair property (Parcel No. 18-18-21040-0001)
86  A-3j  September 21, 2006 e-mail from Martin Kaatz providing several attached items for the Planning Commission to consider regarding the various UGA expansion requests.
   • Letter from WA Community, Trade and Economic Development to Kittitas County outlining the considerations that must be undertaken when UGA boundaries are proposed for expansion
   • Kittitas County Comp Plan GPOs pages 24-29 regarding UGAs.

Additional Exhibits Entered Into Record at City Council Public Hearing October 2, 2006
A   Staff Report for City Council Public Hearing October 2, 2006 with relevant sections pertaining to proposed UGA expansion west of Reeceer Creek Road. Includes attachment A-3 outlining the proposed amendment and the record established prior to Council’s Public Hearing October 2, 2006
B   SEPA Determination of Non-Significance (DNS)
C   Planning Commission Minutes related to proposed amendment
D   8/22/06 Memo from John Akers, Ellensburg Public Works Director outlining utility availability status to proposed UGA expansion area
E   Excerpts from the Growth Management Act RCW 36.70A relevant to UGAs
A-3k  Sept. 27, 2006 letter from Deborah Kuhn in opposition to the UGA expansion request
A-3L  August 10, 2006 request for inclusion in the UGA expansion request from property owners Cordner and Keaton
Additional Testimony Offered at the Council Public Hearing October 2, 2006

Martin Kaatz spoke against the UGA expansion request citing the draft Comp Plan Update’s conclusion that there is adequate land within the current UGA boundary to accommodate the 20-year population growth projection and that more UGA land can be added in years to come through the annual amendment process. He also stated that a land availability analysis needs to be performed because many of the potential constraints to future development such as the floodplain may be more developable than thought. He recommends an incremental expansion of the UGA over time.

Chad Bala (proponent) made a PowerPoint presentation in support of the expansion

Margo Cordner property owner in area immediately west of Reecer Creek Road that is not currently in the proposed expansion area. She is requesting that her property be included in this expansion area and submitted a letter to that effect which also contained the signature of another property owner (Keaton) who also owns land west of Reecer Creek Road that was not included in the proposed expansion area but who also wants to be included

Pat Dencen (proponent) explained his reasons for purchasing the land, outlined his proposed development plan for the property including provision of affordable housing, parks and open spaces, a public trail system and enhancements to the Reecer and Currier Creek riparian corridors that run through the property. He also stated that he wants to work with the City in the design of the development rather than to subdivide it in the County into 1-acre, 3-acre and 20-acre parcels

Beverly Heckert spoke against the UGA expansion for reasons similar to Martin Kaatz. She also agrees with the City Planning Commission and the County Planning Commission recommendations to deny the expansion request because there has not been a detailed study of UGA land needs.
COMPREHENSIVE PLAN AMENDMENT PROPOSAL

THE PURPOSE OF THIS FORM IS TO CLEARLY OUTLINE INFORMATION REGARDING A PROPOSAL TO AMEND THE CITY OF ELLensburg COMPREHENSIVE PLAN. PROVISION OF THE FOLLOWING INFORMATION WILL INSURE THAT THE PROPOSAL CONTAINED HEREIN WILL RECEIVE FULL CONSIDERATION AND THAT THE INDIVIDUAL MAKING SUCH PROPOSAL WILL BE ADVISED OF ALL RELEVANT PUBLIC MEETINGS, HEARINGS, ETC....

NAME/DATE TerraDesignWorks ________________________ June 13, 2006

ADDRESS/PHONE NO. PO Box 4422
Boston, WA 98741
509-764-8369

DESCRIPTION OF AMENDMENT TO COMPREHENSIVE PLAN
The amendment request is to expand the Urban Growth Area (UGA) Boundary to include the following parcels:
18-18-28020-0040, 18-18-27020-0002, 18-18-23020-0003,

SECTIONS OF THE COMPREHENSIVE PLAN PROPOSED FOR AMENDMENT
Ellensburg Urban Growth Area (UGA) Boundary Map Amendment.

REASONS AND INFORMATION SUPPORTING THE PROPOSED AMENDMENT
Please see attached letter.

PROPOSED LANGUAGE FOR AMENDMENTS (IF NOT PROVIDED ABOVE)

N/A

RECEIVED
JUN 21 2006
COMMUNITY DEVELOPMENT A-3a
June 15, 2006

Community Development
City of Ellensburg
119 West First
Ellensburg, WA 98926

RE: Annual Comprehensive Plan Amendment

My name is Chad Bala of Terra Design Works Land Planning Consultant representing Teanaway Ridge LLC, Cle Elum Pines East LLC, and Cle Elum Pines West LLC. Through this letter, I would like to take the opportunity to inform the City of Ellensburg that Terra Design Works is submitting a request to Kittitas County to expand the City of Ellensburg Urban Growth Area (UGA) boundary to include tax parcel numbers 18-18-28000-0040, 18-18-27020-0002, 18-18-27020-0003, 18-18-27020-0015, 18-18-27020-0016, and 18-18-27020-0017 equaling a total acreage of 304.49 (See attached parcel map, Exhibit A). I am asking the City of Ellensburg to support this action. The following supports this request:

As the City of Ellensburg conducts its Comprehensive Plan update and review process it is only appropriate to look at the expansion of the urban growth area boundary. One of the issues, in the bigger picture, when trying to amend the UGA boundary is where the County/City is able to expand the boundary to accommodate for the future growth period. The City of Ellensburg is looking at a population of approximately 23,000 people over the next 20 years at an estimated average of 2.25 persons per household per City update information (See Exhibit B). This translates into approximately 10,222 units over the next 20 years that needs to be available. Furthermore, the Kittitas County Conference of Governments in 2005 adopted the high population number of 52,810 and in April of this year (2006) each jurisdiction has adopted its associated percentage for growth. The percentage for the City of Ellensburg is 45% (See Exhibit C).

In reviewing the City of Ellensburg’s current UGA boundary and possible directions for future growth, the options seem to be fairly limited. The eastern area of the City of Ellensburg is already encompassed with 1 acre and 3 acre lots that are served by individual wells and septic systems. The parcel distribution and individual ownership within this area creates difficulty for the provision of urban services to be expanded through this area.

The southern UGA boundary contains sensitive areas that should be retained and protected along the Yakima River. This area is encompassed by floodplain and floodway
that is associated with the Yakima River (See Exhibit D). Due to the
floodplain/floodway issue, it would make sense to look elsewhere for expansion options
so as to preserve these sensitive shoreline areas.

In looking to the north you have one main limiting factor, Bowers Field. Bowers Field
contains an Airport Overlay Zone. Within these zones a landowner is limited in density.
Therefore there is no possibility of higher urban density or as you would call it “city
density” to continue in this direction, unless land was previously designated prior to the
adoption of the Bowers Field Airport Overlay Zone. These overlay zones for the airport
were developed in order to protect the airport from incompatible uses along with
protecting the surrounding landowners in the vicinity of the airport. Urban services
currently exist down Bowers Road and continue out to the airport. The current UGA
boundary does extend to the west along the new Bowers Road Extension, but even
portions of property in this area are encompassed with the Airport Overlay Zones, thus
limiting density and making it cost prohibitive to expand this direction. Urban Services
also exist at certain points on Bender Road, but the development that is currently
occurring under city density was already within the city limits and vested prior to the
Overlay Zone being adopted. As you continue west along Bender Road there is a point
where the overlay zone stops, in which urban types of density could and should occur
(See Exhibit E).

Now in evaluating the west boundary, this seems to be the appropriate and logical
direction to expand and accommodate for the future growth of the City of Ellensburg.
Urban Services, such as water, currently exist along Dry Creek Road with a 24-inch
water main that continues to run along Highway 10 to one of the main well water sources
for the City. Therefore the possibility of connecting into an existing urban service such
as water already exists (See Exhibits F and G). More importantly, this area has not been
parceled off like the eastern side of the City of Ellensburg has, so there is the ability to
expand urban services in this area. Sewer capability still exists in this area, specifically
to the south and along Highway 10 where residential development is currently occurring
under City standards.

In summary, with the adoption of the new population projections, there are four options
for expansion of the Ellensburg UGA in which three of these directions have limitations
that could possibly prohibit future growth of the city:

- The north has the obstacle of the airport overlay zone,
- The east already has 1 and 3-acre parcels making it difficult to expand urban types
  of services through individually owned parcels,
- The south has the limitation of the Yakima River floodway/floodplain that should
  be preserved,
- The western edge of Ellensburg can and should easily accommodate the
  expansion of the future 20-year growth period.

Expanding to the west is supported by: 1) the existence and feasible expansion of urban
services, 2) that the request is for a large amount land in three ownerships, 3) the 304.49
acres is currently in six individual parcels, 4) 112.31 acres of the 304.49 acre request is currently zoned Suburban and 5) according to the four land use scenarios presented by Studio Cascade for the City of Ellensburg, there is a need for at least an additional 4,137.6 acres of land to accommodate future growth in Ellensburg through the next 20 years (See Exhibit B). Therefore the expansion of the Ellensburg UGA to the west presents its self as the best option.


If you have further questions please do not hesitate to contact me.
(509) 649-3169 or cell (509) 304-9627

Sincerely,

[Signature]

Chad Bala

CC: Kittitas County Community Development Services Department
| Scenario | Total Population
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<tr>
<td>One</td>
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<td>Two</td>
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| Land Use | Access Mean Density Units' Population
|----------|-----------------------------------|
|          | Mean Density
|          | Units' Population

Table 2.1 - Land Supply Summary by Land Use Scenario

The plan proposes four different land use scenarios, each of which can accommodate the forecasted population of approximately 2,000. The comprehensive plan is designed for a population of approximately 2,000.

The plan proposes four different land use scenarios, each of which can accommodate the forecasted population of approximately 2,000.

The plan proposes four different land use scenarios, each of which can accommodate the forecasted population of approximately 2,000.
### Exhibit C

<table>
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<td>Urban Growth Nodes</td>
<td>15.0%</td>
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<td>52,810</td>
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*On October 26, 2005, the Conference of Governments (COG) requested planning jurisdictions to develop a new formula to reflect a more accurate formula based on recent estimates for 2005.
KITTITAS COUNTY CONFERENCE OF GOVERNMENTS

Meeting Minutes – April 26, 2006

Those Present: Chair City of Ellensburg Ed Barry, City of Roslyn Jeri Porter, Kittitas County David Bowen, Town of South Cle Elum Jim DeVere, City of Cle Elum Charles Glondo and Kittitas County Jerry Pettit.

Also Present: Director of Community Development Services Darryl Piercy, City of Cle Elum Gregg Hall, City of Roslyn Jennifer Horwitz, TerraDesign Works Chad Bala, and Clerk of the Board Susan Barret.

I. Call to Order.

With a quorum present, the regular meeting of the Kittitas County Conference of Governments was called to order at 7:01 PM with the introduction of members and staff.

II. Correspondence.

Clerk reports no new correspondence.

III. Minutes

Jim DeVere moved to approve the October 26, 2005 minutes as written. The motion was seconded carried by a unanimous poll of the Board.

IV. New Business

1. Election of Chair and Vice-Chair

Jim DeVere moved to nominate Jerry Pettit for the position of Chair and volunteered himself as Vice-Chair. The motion was seconded. There was no discussion. The motion was carried by a unanimous poll of the Board to accept Jerry Pettit as Chair and Jim DeVere as the Vice-Chair for the 2006 annual term.

2. Urban Growth Areas Population Allocation

The Chair opened the meeting to staff presentation; Director of Community Development Services Darryl Piercy stated that in October 2005 the Conference of Governments requested planning jurisdictions develop a new formula to more accurately reflect recent estimates for 2025. The proposed formula was adjusted downward for Roslyn/UGA to 2.5%; upward for So. Cle Elum/UGA to 2%; upward for Kittitas/UGA to 3%; Cle Elum remained the same at 19%; upward for Ellensburg to
45%; downward for Kittitas County Urban Growth Nodes to 10%; and downward for the County to 18.5%. Piercy stated that this was the best projection based on trends and populations that the cities feel they can handle based on geographical size; density; and capital facilities.

The Chair opened the meeting to public testimony; Jennifer Horwitz asked what the current population is in the Urban Growth Nodes. Piercy responded that the numbers are derived through Census track with an estimation of just under 4,000.

The Chair opened the meeting to discussion and deliberation. Discussion ensued over the potential annexations affect on populations over time; how the UGN populations are allocated; the impact of capital facilities on growth; potential for Ronald’s future services to be independent of Roslyn; and the diversity between UGA and UGN for future planning; and new alternatives in water reclamation.

David Bowen moved to adopt the amended formula for Roslyn/UGA to 2.5% and South Cle Elum/UGA 2% in the population allocation. The motion was seconded carried by a unanimous poll of the Board.


David Bowen gave an overview of the board formation; representation needs; and time commitment. Discussion ensued and the issue was tabled to the next meeting.

IV. Good of the Order

Ed Barry announced the next meeting will be in June to go over the FY 2007 Sales & Use Tax Public Facilities Applications.

Ed Barry opened the meeting to discussion of Animal Shelter and Control. Barry stated that there is much interest on this topic. Porter stated that there is intent and support for a shelter in the upper county; there is forward momentum; possible five way combined effort; several ideas were discussed but plans at this point are still nebulous.

David Bowen opened discussion of city’s input in setting UGA’s for the comprehensive plan update. Piercy spoke to various details of UGA arrangements. Further discussion ensued. Piercy stated that the UGA Boundaries and Comprehensive Plan update are in a parallel process with the annual update and the 10 year update cycles.

V. Chairman’s Report.

Stated that the next meeting will be held in Ellensburg, June 28, 2006 in the Commissioner’s Auditorium.

With no additional business to conduct Porter moved to adjourn the meeting. The motion carried and the meeting adjourned at 7:58 p.m.
B. Use Table.

Note: All aviation uses are acceptable only on airport property.

<table>
<thead>
<tr>
<th>Airport Overlay Zones</th>
<th>Applicable uses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zone 1 (Runway Protection Zone)</td>
<td>1. Land uses, which by their nature will be relatively unoccupied by people should be encouraged (mini-storage, small parking lots, etc.)</td>
</tr>
<tr>
<td></td>
<td>2. Schools, play fields, hospitals, nursing homes, and churches are prohibited.</td>
</tr>
<tr>
<td>Zone 2 (Inner Safety Zone)</td>
<td>1. Schools, play fields, hospitals, nursing homes, and churches are prohibited.</td>
</tr>
<tr>
<td></td>
<td>2. Outside of the existing Ellensburg Urban Growth Area (UGA) the average density will be one dwelling unit per three acres on the property at the date of adoption of this ordinance [July 17, 2001].</td>
</tr>
<tr>
<td></td>
<td>3. Inside the existing Ellensburg Urban Growth Area (UGA) the average density will be one dwelling unit per one acre on the property at the date of adoption of this ordinance [July 17, 2001].</td>
</tr>
<tr>
<td>Zone 3 (Inner Turning Zone)</td>
<td>1. Schools, play fields, hospitals, nursing homes, and churches are prohibited.</td>
</tr>
<tr>
<td></td>
<td>2. Flammable and combustible liquids and specifications for fuel storage shall be in accordance with Articles 52 and 79, the Uniform Fire Code (UFC) standard 52-1, and applicable codes.</td>
</tr>
<tr>
<td></td>
<td>3. Outside of the existing Ellensburg Urban Growth Area (UGA) the average density will be one dwelling unit per three acres on the property at the date of adoption of this ordinance [July 17, 2001].</td>
</tr>
<tr>
<td></td>
<td>4. Inside the existing Ellensburg Urban Growth Area (UGA) for lands zoned Agricultural – 3 the average density will be one dwelling unit per three acres on the property at the date of adoption of this ordinance [July 17, 2001].</td>
</tr>
<tr>
<td></td>
<td>5. Inside the existing Ellensburg Urban Growth Area (UGA) for lands zoned Suburban the average density will be one dwelling unit per one acre on the property at the date of adoption of this ordinance [July 17, 2001].</td>
</tr>
<tr>
<td>Zone 4 (Outer Safety Zone)</td>
<td>1. Schools, play fields, hospitals, nursing homes, and churches are prohibited.</td>
</tr>
<tr>
<td></td>
<td>2. Outside of the existing Ellensburg Urban Growth Area (UGA) the average density will be one dwelling unit per three acres on the property at the date of adoption of this ordinance [July 17, 2001].</td>
</tr>
<tr>
<td></td>
<td>3. Inside the existing Ellensburg Urban Growth Area (UGA) for lands zoned Suburban the average density will be one dwelling unit per one acre on the property at the date of adoption of this ordinance [July 17, 2001].</td>
</tr>
<tr>
<td>Zone 5 (Sideline Zone)</td>
<td>1. All aviation related uses are permitted.</td>
</tr>
<tr>
<td></td>
<td>2. Schools, play fields, hospitals, nursing homes, and churches are prohibited.</td>
</tr>
<tr>
<td>Zone 6 (Airport Operations Zone)</td>
<td>1. All aviation related uses are permitted within airport property.</td>
</tr>
<tr>
<td></td>
<td>2. Outside of the existing Ellensburg Urban Growth Area (UGA) the average density will be one dwelling unit per three acres on the property at the date of adoption of this ordinance [July 17, 2001].</td>
</tr>
<tr>
<td></td>
<td>3. Inside the existing Ellensburg Urban Growth Area (UGA) the average density will be one dwelling unit per one acre on the property at the date of adoption of this ordinance [July 17, 2001].</td>
</tr>
</tbody>
</table>

(Ord. 2001-10 (part), 2001).
commissioned as part of the comprehensive plan’s preparation indicated that Ellensburg will need between 50 and 280 acres of commercial and industrial land to accommodate forecast retail and employment demand. The UGA is sufficient in size to accommodate Ellensburg’s growth (Table 1).

Table 1 - Land Supply Summary by Land Use Scenario

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Acres</th>
<th>Mean Density</th>
<th>Units</th>
<th>Pop/Unit</th>
<th>Population</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Downtown Retail Expansion</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>High Density Residential</td>
<td>227.28</td>
<td>12 du/ac</td>
<td>2,727</td>
<td>2.74</td>
<td>5,866</td>
</tr>
<tr>
<td>Mixed Residential</td>
<td>170.68</td>
<td>4.25 du/ac</td>
<td>2723</td>
<td>2.25</td>
<td>6,081</td>
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<tr>
<td>Total Population</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>11,947</td>
</tr>
<tr>
<td><strong>Limited Retail Expansion</strong></td>
<td></td>
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<td></td>
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<tr>
<td>High Density Residential</td>
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<td>12 du/ac</td>
<td>2,727</td>
<td>2.04</td>
<td>5,836</td>
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<tr>
<td>Mixed Residential</td>
<td>170.68</td>
<td>4.25 du/ac</td>
<td>2723</td>
<td>1.25</td>
<td>4,308</td>
</tr>
<tr>
<td>Total Population</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>10,144</td>
</tr>
<tr>
<td><strong>South Interchange Retail Development</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>High Density Residential</td>
<td>227.28</td>
<td>12 du/ac</td>
<td>2,727</td>
<td>1.14</td>
<td>3,334</td>
</tr>
<tr>
<td>Mixed Residential</td>
<td>391.62</td>
<td>4 du/ac</td>
<td>16,952</td>
<td>2.25</td>
<td>43,929</td>
</tr>
<tr>
<td>Total Population</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

City of Ellensburg 2006 Draft Comprehensive Plan SEIS - Page 13
September 11, 2006

HAND DELIVERED

Mr. Mike Smith
City of Ellensburg
Department of Community Development
501 N. Anderson
Ellensburg, WA 98926

Re: City of Ellensburg Annual Comprehensive Plan Process,
UGA boundary expansion

Dear Mike:

I wanted to follow up our telephone conversation of September 9, 2006. As I indicated I represent Art and Sherry Sinclair and Mr. Sinclair's parents, Mr. and Mrs. Basil Sinclair. The Sinclairs currently have pending before Kittitas County, a request to take their property out of the Commercial-Agricultural designation. I am confident that ultimately Kittitas County will remove it from the Commercial-Agricultural designation. The Sinclairs have referred the letter from the City of Ellensburg regarding the UGA expansion in the area. Mr. and Mrs. Sinclair do desire to have their property placed within the City of Ellensburg UGA.

Unfortunately the Sinclairs are on a family cruise this week and will not be able to personally attend the September 14, 2006 Planning Commission public hearing. Mr. and Mrs. Sinclair have asked me to appear on their behalf and provide the Planning Commission with information relative to their property and the proposed expansion of the Ellensburg UGA.

If you have any questions or concerns in the meantime, please do not hesitate to contact me.

Very truly yours,

Jeff Slothower

cc: Client
Trends indicate that Ellensburg’s population will continue to increase over the 20-year planning period and to increase at a sustained rate exceeding 2% per year. Kittitas County, with development of Suncadia and the increasing popularity of the upper county, will also likely experience rapid and sustained population growth. Ellensburg anticipates that OPM’s High Series will be the most accurate picture of population growth in Kittitas County and that Ellensburg will continue to have 45% of the county’s residents. For this reason, this comprehensive plan is designed for a population of approximately 23,000.

The plan process included consideration of four different land use scenarios, each of which could have accommodated, at a minimum, the forecast population of 23,000 within the urban growth area. If developed to their mean densities, all of the proposed land use scenarios more than fit 23,000 residents within Ellensburg’s UGA. (Table 2.6) Scenario Three, described in more detail in Chapter 4, emerged as the preferred scenario and is the subject of this plan.

**Table 2.6 – Land Supply Summary by Land Use Scenario**

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Acres</th>
<th>Density</th>
<th>Units</th>
<th>Pop./Unit</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Scenario One</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>High Density Residential</td>
<td>227.28</td>
<td>12 du/ac</td>
<td>2,727</td>
<td>2.14</td>
<td>5,856</td>
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<tr>
<td>Mixed Residential</td>
<td>170.68</td>
<td>4.25 du/ac</td>
<td>17,725</td>
<td>2.25</td>
<td>39,881</td>
</tr>
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<td>Total Population</td>
<td></td>
<td></td>
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<tr>
<td>Scenario Two</td>
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<td></td>
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<tr>
<td>High Density Residential</td>
<td>227.28</td>
<td>12 du/ac</td>
<td>2,727</td>
<td>2.14</td>
<td>5,856</td>
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<tr>
<td>Mixed Residential</td>
<td>4109.74</td>
<td>4.25 du/ac</td>
<td>17,466</td>
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<tr>
<td>Total Population</td>
<td></td>
<td></td>
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<td></td>
<td>45,134</td>
</tr>
<tr>
<td>Scenario Three (Preferred)</td>
<td></td>
<td></td>
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<td></td>
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</tr>
<tr>
<td>High Density Residential</td>
<td>225.37</td>
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<td>2,704</td>
<td>2.14</td>
<td>5,787</td>
</tr>
<tr>
<td>Mixed Residential</td>
<td>3988.77</td>
<td>4.25 du/ac</td>
<td>16,952</td>
<td>2.25</td>
<td>38,142</td>
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<tr>
<td>Total Population</td>
<td></td>
<td></td>
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<td>43,929</td>
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<tr>
<td>Scenario Four</td>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>High Density Residential</td>
<td>227.28</td>
<td>12 du/ac</td>
<td>2,727</td>
<td>2.14</td>
<td>5,856</td>
</tr>
<tr>
<td>Mixed Residential</td>
<td>3910.32</td>
<td>4 du/ac</td>
<td>16,618</td>
<td>2.25</td>
<td>37,390</td>
</tr>
<tr>
<td>Total Population</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>43,226</td>
</tr>
</tbody>
</table>

Chapter 2 – Community Profile
Ellensburg UGA Expansion

Request

To expand the Ellensburg Urban Growth Area (UGA) boundary and requesting the City of Ellensburg to support the inclusion of the following parcels:

- 18-18-28000-0040 (192.18 ac.)
- 18-18-27020-0002 (32.77 ac.)
- 18-18-27020-0003 (25.77 ac.)
- 18-18-27020-0015 (30.00 ac.)
- 18-18-27020-0016 (15.77 ac.)
- 18-18-27020-0017 (8.00 ac.)

This Comp Plan amendment would add an additional 304.49 acres to the western boundary of the Ellensburg UGA.

The subject property is adjacent to the Ellensburg UGA.
The following slides will discuss the north, east, south, and west boundaries of the City of Ellensburg UGA and the current growth pattern along with the advantage or disadvantage of expanding the urban growth boundary in each of these directions.

Northern Boundary

Limiting factors

- Bowers Field Airport Overlay Zone
- Wetland Areas
Bowers Field Airport Overlay

- It was created to protect Bowers Field and the surrounding homeowners
- Limits the land uses in the area
- Urban Density is limited due to the overlay zones.

Airport Overlay Zones

- Zone 3 (Inner Turning Zone)
  - 4.) “Inside the existing Ellensburg Urban Growth Area (UGA) for lands zoned Agricultural-3 the average density will be one dwelling unit per three acres on the property at the date of adoption of this ordinance [July 17, 2001].”
  - 5.) “Inside the existing Ellensburg Urban Growth Area (UGA) for lands zoned Suburban the average density will be one dwelling unit per one acre on the property at the date of adoption of this ordinance [July 17, 2001].”

- Zone 6 (Airport Operations Zone)
  - 3.) “Inside the existing Ellensburg Urban Growth Area (UGA) the average density will be one dwelling unit per one acre on the property at the date of adoption of this ordinance [July 17, 2001].”
Airport Overlay Map

Wetlands

- National Inventory Wetland Map
- Just outside of the overlay zone there is land suitable for higher density but is limited by existing wetlands.
Eastern Boundary

- Currently comprised of smaller parcels

- This makes it difficult to expand urban services to all of the individually owned parcels.
  - This further supports the City of Ellensburg's consultant statement on page 41 under the Urban Growth Area section in Chapter 4-Land Use of Ellensburg's comprehensive plan final draft as published on September 12, 2006.
Ellensburg Comprehensive Plan –
2006 Update

"Some developed areas are excluded from the
UGA, notably to the east of town, because
they were subdivided to near urban intensity
but are not likely to become any more intense
than they now are. Residents in these areas
have voiced little interest in becoming
annexed into the City, and the City has little
motivation now to entice them to do so."

Please refer to
Chapter 4 – Land Use
Pg. 41

Eastern Boundary Parcel Map
Land Inventory Map from the City of Ellensburg

Southern Boundary

◆ Yakima River Floodplain and Floodway

- The floodplain and floodway are sensitive areas that should be retained and protected
  - This further supports the City of Ellensburg’s consultant statement on page 42 under the Urban Growth Area section in Chapter 4-Land Use of Ellensburg’s comprehensive plan final draft as published on September 12, 2006.
Ellensburg Comprehensive Plan – 2006 Update

"The City encourages an increase in density in specific areas, preserving and conserving ecologically sensitive land, and pacing expansion into the UGA to match the City's ability to provide services."

Please refer to Chapter 4 – Land Use Pg. 42

Floodway Map
Land Inventory Map from the City of Ellensburg

Western Boundary

- Vicinity Map
- Water
- Sewer
- Suburban Zoned Property
- Large amount of acreage
Water

- Water services currently exist along Dry Creek Road with a 24-inch main for water
  - 24" main runs along Highway 10 to one of the main water sources for the City
  - This allows for easy expansion of water services
  - Currently a proposal for a 375 unit residential development is proposed at the edge of the UGA boundary. This development will be required to extend city water along Bender Road to the proposal.
Sewer

- Sewer capabilities specifically exist to the south of the subject property and along Highway 10

  - Currently residential development is occurring in this location
  - There is currently a proposal for a 375 plus residential development at the edge of the UGA boundary. This development will be required to extend city sewer north along Reecer Creek Road.
Suburban Zoning

- Proposal includes 112.31 acres of land zoned Suburban
- The inclusion of land within an urban growth area indicates that the land will be developed at an urban density within the next 20 years. This land will eventually transition to a higher urban residential land use.
- The Suburban zone, which allows 1 unit per 1 acre is a transitional zone to higher urban residential density, therefore this transition zone needs to be within the urban growth area.
Large Amount of Acreage

- This proposal is for 6 parcels totaling 304 acres. This land is not broken down into small individual parcels, therefore facilitating the future planning and expansion of infrastructure throughout these properties.
- Affordable/Attainable housing. The landowner is also willing to dedicate a minimum of five percent of this land to affordable/attainable housing within the Ellensburg area.
Possible New School Location

School District Board Meeting August 23, 2006

- Ellensburg School Board entered into negotiations to purchase property included within this request of the UGA expansion, for a new school
  - 25 acres located at Reecer Creek and Bender Road
- The School District understands that urban services will need to be present for the school to be operational and is in full support of the property to be included within the UGA
Summary

As presented in the aforementioned slides, the hardships, environmental constraints, and existing parcelization reflects the limitations of land within the current uga that will not provide for the next 20 year growth period.

We feel that our request of 304 acres to be included into the uga is appropriate and will help meet the projected acreage as mentioned by the City of Ellensburg’s Consultant.
December 5, 2005

Chad Bala
Terra Design Group
PO Box 462
Roslyn, Washington 98941

RE: Wetland Stream Analysis - Pearson Property, Ellensburg, Washington
    B-12 Wetland Consulting Job #A5-338

Dear Chad,

At your request we have conducted an inspection of the 30 acre Pearson property located east of Reecer Creek Road and south of the Town Canal in Kittitas County, Washington. The John Wayne Trail borders the south side of the site. The purpose of our investigation was to determine the approximate size and location of any jurisdictional wetlands, streams or buffers on the site.

1.0 METHODOLOGY

B-12 Wetland Consulting, Inc. investigated the site in November of 2005, using methodology described in the Washington State Wetlands Identification Manual (WADOE, March 1997). This is the methodology currently recognized by Kittitas County and the City of Ellensburg for wetland determinations and delineations. Soil colors were identified using the 1990 Edited and Revised Edition of the Munsell Soil Color Charts (Kollmorgen Instruments Corp. 1990).

The Washington State Wetlands Identification and Delineation Manual and the Corps of Engineers Wetlands Delineation Manual both require the use of the three-parameter approach in identifying and delineating
wetlands. A wetland should support a predominance of hydrophytic vegetation, have hydric soils and display wetland hydrology. To be considered hydrophytic vegetation, over 50% of the dominant species in an area must have an indicator status of facultative (FAC), facultative wetland (FACW), or obligate wetland (OBL), according to the National List of Plant Species That Occur in Wetlands: Northwest (Region 9) (Reed, 1988). A hydric soil is "a soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part". Anaerobic conditions are indicated in the field by soils with low chromas (2 or less), as determined by using the Munsell Soil Color Charts; iron oxide mottles; hydrogen sulfide odor and other indicators. Generally, wetland hydrology is defined by inundation or saturation to the surface for a consecutive period of 12.5% or greater of the growing season. Areas that contain indicators of wetland hydrology between 5%-12.5% of the growing season may or may not be wetlands depending upon other indicators. Field indicators include visual observation of soil inundation, saturation, oxidized rhizospheres, water marks on trees or other fixed objects, drift lines, etc. Under normal circumstances, indicators of all three parameters will be present in wetland areas.

NOTE: The Ellensburg area has unique hydrologic conditions that make wetland delineation and identification difficult without cessation of site irrigation practices, and monitoring of the hydrology through the growing season (mid April through October 1). Generally, irrigated fields in this area have been flood irrigated for decades, and in many cases, over 100 years. This long term irrigation practice creates soils profiles that have hydric or wetland characteristics, as well as allows the growth of plants typically found in wetland areas. On many sites, only through shutting off the irrigation and monitoring the sites hydrology can it be determined if natural wetland conditions exist. If no evidence of inundation or saturation of the upper 12” of soil is found within the growing season, the area is not wetland regardless of the fact there may be wetland plants and hydric soils. This determination is made more complicated by the regional rise in the water table through the irrigation season, often peaking near in the mid-late summer. This regional rise, although itself created by the local use of irrigation (an artificial hydrology source), is considered to be a “natural” phenomenon and treated as a natural water source by the regulatory authorities such as the Corps of Engineers as well as Washington Department of Ecology. As a result, in order to make a definitive determination of the actual presence of wetland in the area of the site, the sites irrigation must be
shut off prior to the start of the irrigation season, and the site will need to be monitored for soil inundation or saturation within 12" of the surface through the entire growing season. It is our experience in this region that this is the only acceptable way to disprove areas that contain wetland soils and plants from being considered wetland.

2.0 OBSERVATIONS

The site is generally comprised of fallow pasture and or timothy fields. Whisky Creek passes through the center of the site. The site has an abandoned appearance and does not appear to have been intentionally flood irrigated in the past few years. Many old irrigation ditches, pipes, and diversions are found along the property leading from the Town Canal.

The majority of the site is covered with wetland vegetation including various sedges (Carex spp.) as well as Baltic rush (Juncus balticus) and meadow foxtail (Alopecurus spp.). Along and near Whisky Creek, coyote willow (Salix exigua), reed canary grass (Phalaris arundinacea) and cattails (Typha latifolia) are present.

Soil pits excavated throughout the site reveal clay loam soils with hydric (wetland) characteristics including dark or gleyed soils and the presence of redoximorphic concentrations. Portions of the site on the east were found to have surface soil saturation.

The site has clearly been flood irrigated in the past. However, the abandoned character of the majority of the site and the lack of apparent recent irrigation activity indicates that much of the site could be considered wetland, more than indicated in the recent City of Ellensburg UGA Wetland Inventory. However, only through a detailed monitoring program as described in Section 1.0 and maintenance of the failing irrigation and tail water features can this be determined.

Whisky Creek

Whisky Creek had surface flow throughout the width of the channel on-site. However, review of the upper reaches of the creek revealed that the water in the creek at this time starts at the Town Canal from a designed overflow feature. No water was observed within the Creek to the north of
this feature. It is probable Whisky Creek contains fish. We observed fish in a tributary ditch to the west of the site 1 year ago during work on a sewer line project extending north from Cora Street.

3.0 REGULATIONS

In addition to the wetland regulations previously described for wetlands and streams, certain activities (filling and dredging) within "waters of the United States" may fall under the jurisdiction of the US Army Corps of Engineers (ACOE). The ACOE regulates all discharges into "waters of the United States" (wetlands) under Section 404(b) of the Clean Water Act.

Discharges (fills) into isolated and headwater wetlands up to 0.5 (1/2) acre are permitted under the Nationwide 39 Permit (NWP 39). However, discharges that result in over 0.1 (1/10th) acre of fill (and less than 0.5 acres) will require "Notification" and mitigation at a ratio of 1:1 (minimum). Washington State Department of Ecology has placed Regional Conditions on the Nationwide 39 permit that are more restrictive than the national regulations. The limits of fill can be modified if the agencies conclude that ESA fisheries could be impacted by the proposed wetland or stream fill activities.
Due to the increasing emphasis on Endangered Species Act compliance for all fills of Waters of the United State and Waters of the State, both the Corps of Engineers and Washington Department of Ecology should be contacted regarding permit conditions, compliance, and processing prior to commitment to any fill of wetlands or streams.

Further Study Requirements

The majority of the site with the exception of the extreme western edge currently meets wetland criteria. The sites wetland hydrology appears to be self sustaining as there does not appear to be any active irrigation of this area occurring. In order to break out the upland from the wetland on this site a detailed monitoring study as described in Section 1 of this report will be needed. All irrigation features leaking would need to be repaired and irrigation ceased for the duration of the monitoring period (April-Oct). This is the only way to definitively determine which portions of the site currently displaying wetland characteristics are truly natural wetland, or are artificial and only supported by irrigation, and as such, would not be regulated as wetlands.

If you have any questions in regards to this report or need additional information, please feel free to contact me at (253) 859-0515 or at ed@b12assoc.com.

Sincerely,
B-12 Wetland Consulting, Inc.

[Signature]

Ed Sewall
Senior Wetlands Ecologist (PWS #212)
December 5, 2005

Chad Bala
Terra Design Group
PO Box 462
Roslyn, Washington 98941

RE: Wetland Stream Analysis – Dry Creek Property, Ellensburg, Washington
B-12 Wetland Consulting Job #A5-336

Dear Chad,

At your request we have conducted an inspection of the Dry Creek property including Parcels #181827040-0003, #181827040-0011, #181827040-0008, #181827040-0009, and Parcel #3, with a combined total area of approximately 120 acres in Kittitas County, Washington. The site is located east of Reece Creek Road, North of Dry Creek Road, and is split by the John Wayne Trail. A portion of the Town Canal borders the northeast corner of the site. The purpose of our investigation was to determine the approximate size and location of any jurisdictional wetlands, streams or buffers on the site.

1.0 METHODOLOGY

B-12 Wetland Consulting, Inc. investigated the site in November of 2005, using methodology described in the Washington State Wetlands Identification Manual (WADOE, March 1997). This is the methodology currently recognized by Kittitas County and the City of Ellensburg for wetland determinations and delineations. Soil colors were identified using the 1990 Edited and Revised Edition of the Munsell Soil Color Charts (Kollmorgen Instruments Corp. 1990).
The *Washington State Wetlands Identification and Delineation Manual* and the *Corps of Engineers Wetlands Delineation Manual* both require the use of the three-parameter approach in identifying and delineating wetlands. A wetland should support a predominance of hydrophytic vegetation, have hydric soils and display wetland hydrology. To be considered hydrophytic vegetation, over 50% of the dominant species in an area must have an indicator status of facultative (FAC), facultative wetland (FACW), or obligate wetland (OBL), according to the National List of Plant Species That Occur in Wetlands: Northwest (Region 9) (Reed, 1988). A hydric soil is "a soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part". Anaerobic conditions are indicated in the field by soils with low chromas (2 or less), as determined by using the Munsell Soil Color Charts; iron oxide mottles; hydrogen sulfide odor and other indicators. Generally, wetland hydrology is defined by inundation or saturation to the surface for a consecutive period of 12.5% or greater of the growing season. Areas that contain indicators of wetland hydrology between 5%-12.5% of the growing season may or may not be wetlands depending upon other indicators. Field indicators include visual observation of soil inundation, saturation, oxidized rhizospheres, water marks on trees or other fixed objects, drift lines, etc. Under normal circumstances, indicators of all three parameters will be present in wetland areas.

**NOTE:** The Ellensburg area has unique hydrologic conditions that make wetland delineation and identification difficult without cessation of site irrigation practices, and monitoring of the hydrology through the growing season (mid April through October 1). Generally, irrigated fields in this area have been flood irrigated for decades, and in many cases, over 100 years. This long-term irrigation practice creates soils profiles that have hydric or wetland characteristics, as well as allows the growth of plants typically found in wetland areas. On many sites, only through shutting off the irrigation and monitoring the sites hydrology can it be determined if natural wetland conditions exist. If no evidence of inundation or saturation of the upper 12" of soil is found within the growing season, the area is not wetland regardless of the fact there may be wetland plants and hydric soils. This determination is made more complicated by the regional rise in the water table through the irrigation season, often peaking near in the mid-late summer. This regional rise, although itself created by the local use of irrigation (an artificial hydrology source), is considered to be a "natural" phenomenon and treated as a natural water source by the regulatory authorities such as
the Corps of Engineers as well as Washington Department of Ecology. As a result, in order to make a definitive determination of the actual presence of wetland in the area of the site, the sites irrigation must be shut off prior to the start of the irrigation season, and the site will need to be monitored for soil inundation or saturation within 12" of the surface through the entire growing season. It is our experience in this region that this is the only acceptable way to disprove areas that contain wetland soils and plants from being considered wetland.

2.0 OBSERVATIONS

The site is generally comprised of active pasture to the south of the John Wayne Trail and abandoned pasture/timothy fields to the north. Whisky Creek passes through the western portion of the site. The portion of the site to the north of the Trail has an abandoned appearance and does not appear to have been intentionally flood irrigated in the past few years. Many old irrigation ditches, pipes, and diversions are found along the property leading from the Town Canal.

The majority of this portion of site is covered with wetland vegetation including various sedges (Carex spp.) as well as Baltic rush (Juncus balticus) and meadow foxtail (Alopecurus spp.). Along and near Whisky Creek, coyote willow (Salix exigua), reed canary grass (Phalaris arundinacea) and cattails (Typha latifolia) are present.

Soil pits excavated throughout the site reveal clay loam soils with hydric (wetland) characteristics including dark or gleyed soils and the presence of redoximorphic concentrations. Portions of the site on the east were found to have surface soil saturation.

The site has clearly been flood irrigated in the past. However, the abandoned character of the majority of the site and the lack of apparent recent irrigation activity indicates that much of the site could be considered wetland, more than indicated, in the recent City of Ellensburg UGA Wetland Inventory. However, only through a detailed monitoring program as described in Section 1.0 and maintenance of the falling irrigation and tail water features can this be determined.

The area of the site to the south of the trail although currently grazed by cattle, has a large south draining depression with similar characteristics
as the northern portion of the site. This area has dark hydric appearing soils and was saturated during our site visit. Wetland plants are found throughout this area. The eastern and western portions of the property to the south of the trail appear to be dry.

**Whisky Creek**

Whisky Creek had surface flow throughout the width of the channel on-site. However, review of the upper reaches of the creek revealed that the water in the creek at this time starts at the Town Canal from a designed overflow feature. No water was observed within the Creek to the north of this feature. It is probable Whisky Creek contains fish. We observed fish in a tributary ditch to the west of the site 1 year ago during work on a sewer line project extending north from Cora Street.

### 3.0 REGULATIONS

In addition to the wetland regulations previously described for wetlands and streams, certain activities (filling and dredging) within "waters of the United States" may fall under the jurisdiction of the US Army Corps of Engineers (ACOE). The ACOE regulates all discharges into "waters of the United States" (wetlands) under Section 404(b) of the Clean Water Act.

Discharges (fills) into isolated and headwater wetlands up to 0.5 (1/2) acre are permitted under the Nationwide 39 Permit (NWP 39). However, discharges that result in over 0.1 (1/10th) acre of fill (and less than 0.5 acres) will require "Notification" and mitigation at a ratio of 1:1 (minimum). Washington State Department of Ecology has placed Regional Conditions on the Nationwide 39 permit that are more restrictive than the national regulations. The limits of fill can be modified if the agencies conclude that ESA fisheries could be impacted by the proposed wetland or stream fill activities.

Due to the increasing emphasis on Endangered Species Act compliance for all fills of Waters of the United State and Waters of the State, both the Corps of Engineers and Washington Department of Ecology should be contacted regarding permit conditions, compliance, and processing prior to commitment to any fill of wetlands or streams.
Further Study Requirements

The northern and south-central portions of the site currently meet wetland criteria. At least the northern portion appear to be self sustaining as there does not appear to be any active irrigation of this area occurring. The southern central area appears to have a mix of natural hydrology and irrigation sustaining the wetland character of this area. In order to break out the upland from the wetland on this site a detailed monitoring study as described in Section 1 of this report will be needed. All irrigation features leaking would need to be repaired and irrigation ceased for the duration of the monitoring period (April-Oct). This is the only way to definitively determine which portions of the site currently displaying wetland characteristics are truly natural wetland, or are artificial and only supported by irrigation, and as such, would not be regulated as wetlands.
If you have any questions in regards to this report or need additional information, please feel free to contact me at (253) 859-0515 or at ed@b12assoc.com.

Sincerely,
B-12 Wetland Consulting, Inc.

[Signature]

Ed Sewall
Senior Wetlands Ecologist (FWS #212)
There are also several administrative offices and public services in the community. County facilities include the courthouse, jail and various support yards and shops. WSDOT maintains an operations yard in Ellensburg, and the USFS and NRCS and many other state and federal agencies maintain offices in town.

Mixed Uses

There are few areas where land uses mix in Ellensburg. The CBD and the university are the two main places where use mixing has occurred. Other parts of the community are almost totally defined by single uses, with residential districts, industrial districts, and tourist commercial districts hosting only the types of uses those districts allow.

Recent trends favoring the mixing of uses indicate a growing desire to make urban spaces more dynamic and less auto reliant. These trends are currently taking place in Ellensburg, such as in the CBD. Rapid growth in Ellensburg will require changes in other areas to accomplish mixed land uses.

Urban Growth Area

The City of Ellensburg’s municipal boundaries encompass 4,260 acres, and the Urban Growth Area (UGA) encompasses another 4,590 acres. Much of the land within the UGA but outside the city limits is now either undeveloped or sparsely developed, reflecting the community’s interest in converting it from low-intensity use to urban use over time. Some developed areas are excluded from the UGA, notably to the east of town, because they were subdivided to near urban intensity but are not likely to become any more intense than they now are. Residents in these areas have voiced little interest in becoming annexed into the City, and the City has little motivation now to entice them to do so.

A large portion of the UGA includes a southerly extension along the east side of the Yakima River almost to Thrall Road. This “lobe” was added to the city’s proposed UGA in response to interests proposing its development into a resort. The resort did not materialize, and the UGA has since retained the land in the absence of any proposal to exclude it. Land in this area is generally at an elevation lower than the City’s wastewater treatment plant and will require expensive system improvements to serve it.

Kittitas County enlarged Ellensburg’s UGA in 2005, expanding it eastward to Bull Road, encompassing approximately 190 acres of vacant land adjacent to the north side of I-90. This expansion represents the first since the County adopted Ellensburg’s UGA in 1997.

Demand and Needs Assessment

Ellensburg’s population is forecast to reach almost 23,000 residents by the year 2025 (Chapter 2). This increasing residential population translates into increased demands on land and facilities, an increased need for local services and an increased potential for job...
17.18.030 Minimum lot requirements.

1. Minimum lot sizes in the R2 zone are as follows:
   a. Single-family dwelling, seven thousand two hundred square feet for any lots created after the date of the ordinance codified in this chapter; 5,000 square feet for all existing platted lots.
   b. Two-family dwelling, ten thousand square feet.
2. The minimum lot depth shall be one hundred feet.
3. The minimum average lot width shall be sixty-five feet.
4. In no case shall there be more than one main dwelling and its accessory buildings constructed on one lot unless such lot is twice the minimum required for a single-family dwelling.
5. No main dwelling shall be built or moved on to a lot not abutting a public street, with the exception of special cases where the county may approve other suitable access. (Ord. 89-10 (part), 1989).

17.18.040 Maximum lot coverage.
The ground area covered by all buildings including accessory buildings shall not exceed thirty percent for lots 6,500 square feet or more in area (created after the date of the ordinance codified in this chapter) and forty percent for lots less than 6,500 feet in area. (Ord. 89-10 (part), 1989).

17.18.050 Maximum structure height.
Maximum structure height. No structure shall exceed two and one-half stories, or thirty-five feet, whichever is less in height. (Ord. 89-10 (part), 1989).

17.18.060 Yard requirements - Front.
There shall be a front yard having a minimum depth of fifteen feet, unless a previous building line less than this has been established, in which case the minimum front yard for interior lots shall be the average of the setbacks of the main structures on the abutting lots on either side if both lots are occupied. If one lot is occupied and the other vacant, the setback shall be the setback of the occupied lot plus one-half the remaining distance to the required fifteen foot setback. If neither of the abutting side lots or tracts are occupied by a structure, the setback shall be fifteen feet. (Ord. 89-10 (part), 1989).

17.18.070 Yard requirements - Side.
There shall be a side yard of not less than ten (10) feet on one side, and five (5) feet on the opposite side of a building. (Side of building means outer face, any part of building nearest to the side line, not including roof eaves.) On corner lots the side yard shall be a minimum of fifteen feet on the side abutting the street. (Ord. 89-10 (part), 1989).

17.18.080 Yard requirements - Rear.
There shall be a rear yard with a minimum depth of twenty-five feet to the main building. However one accessory structure may be constructed within five (5) feet of the rear lot line. (Ord. 8910.(part), 1989).

Chapter 17.20
8 - SUBURBAN ZONE
Sections
17.20.010 Purpose and intent.
17.20.020 Uses permitted.
17.20.030 Lot - Size required.
17.20.040 Lot - Maximum coverage.
17.20.050 Maximum structure height.
17.20.060 Yard requirements.
17.20.070 Repealed.
17.20.080 Temporary stands.
17.20.090 Grazing.
17.20.100 Lots abutting right-of-way required for dwellings.
17.20.110 Conditional uses.

* Prior history. Ord. 76-7, 76-3, 76-5, 72-6, 72-3, 71-8, 69-7, 68-17, 2.

17.20.010 Purpose and intent.
The purpose and intent of the suburban zone is to provide for and protect low density semi-rural residential development chiefly in outlying transitional areas where a mixture of residential and traditionally rural land uses will be compatible. (Ord. 83-Z-2 (part), 1983: Res. 83-10, 1983).

17.20.020 Uses permitted.
The following uses are permitted:

1. Single family homes not including mobile homes or trailer houses;
2. Duplexes and residential accessory buildings;
3. All types of agriculture and horticulture not otherwise restricted or prohibited herein;
4. The raising of animals (excluding swine and mink), providing an area of not less than one acre is available;
5. Uses customarily incidental to the use set forth in this section;
6. Any use not listed which is nearly identical to a permitted use, as judged by the administrative official, may be permitted. In such cases, all adjacent property owners shall be given official notification for an opportunity to appeal such decisions within ten working days pursuant to Title 15A of this code, Project permit application process. (Ord. 96-19 (part), 1996; Ord. 83-Z-2 (part), 1983; Res. 83-10, 1983).

17.20.030 Lot - Size required.

1. Single family residence shall be not less than one acre with an average width of not less than one hundred fifty feet; provided however, that minimum lot sizes in platted subdivisions shall be computed on the basis of one lot per gross acre with a minimum size of not less than 0.75 (three-fourths) acre. All lots of record at the time of passage of the ordinance codified herein shall be considered as conforming to lot size requirements.
2. Multiple family dwellings or apartment houses shall be the same as subsection (A) above. Parking area requirements shall be the same as required in residential zone. (Res. 8310, 1983).
17.20.040 Lot - Maximum coverage.
The ground area covered by all buildings, including accessory buildings, shall not exceed thirty percent of the lot area. (Res. 83-10, 1983).

17.20.050 Maximum structure height.
No structure shall exceed two and one-half stories or thirty-five feet whichever is less in height. (Res. 83-10, 1983).

17.20.060 Yard requirements.
No structure shall be built within twenty-five feet of the front and rear property lines or within fifteen feet of any side property line with the exception of corner lots where the side yard abutting a street need only be twenty feet. (Res. 83-10, 1983).

17.20.070 Repealed.

17.20.080 Temporary stands.
Accessory buildings may include one only temporary and movable stand, etc. (Res. 83-10, 1983).

17.20.090 Grazing.
Grazing of cattle, sheep, goats or horses may include the supplementary feeding of such cattle or horses or both provided that such grazing is not part of, nor conducted in conjunction with any dairy, livestock feed yard, livestock sales yard, or commercial riding academy located on the same premises. (Res. 83-10, 1983).

17.20.100 Lots abutting right-of-way required for dwellings.
No main dwelling shall be built or moved onto a lot not abutting a public right-of-way. (Res. 83-10, 1983).

17.20.110 Conditional uses.*
The following uses may be permitted in any suburban zone subject to the conditions set forth in Chapter 17.60, providing that they are not in conflict with existing or proposed development in a particular area; it is the intent of this code that such uses are subordinate to the primary residential and agricultural uses of this zone:

1. (Deleted by Ord. 83-Z-2)
2. (Deleted by Ord. 83-Z-2)
3. Dairying and stock raising except the raising of swine commercially and the establishment of livestock feed lots; provided that no permit shall be issued for dairying or stock raising on any tract of land having an area of less than nine acres or for animal sheds or barns to be located less than one hundred feet from any property held under different ownership from that upon which such shed or barn is located;
4. Greenhouses, nurseries;
5. Home occupations;
6. Hospitals;
7. Museums;
8. Public utility substations;
9. Riding academies;
10. Schools, public and private;
11. Governmental uses essential to residential neighborhoods;
12. Churches;
13. (Deleted by Ord. 83-Z-2)
14. Community clubs;
15. Convalescent homes;
16. Group homes;
17. Day care facilities;

* Editor's note: Subsection (b) of this subsection reflects the intent assigned by the document adopted by Res. 87-9, as amended by Ord. 83-Z-2.

Chapter 17.22
S-11 SUBURBAN - II ZONE*

Sections
17.22.010 Purpose and intent.
17.22.020 Uses permitted.
17.22.030 Lot - Size required.
17.22.040 Maximum lot coverage.
17.22.050 Maximum height permitted.
17.22.060 Yard requirements.
17.22.090 Grazing.
17.22.100 Conditional uses.
17.22.110 Location of main dwelling.
* Prior history: Ord. 2771-2.

17.22.010 Purpose and intent.
The purpose and intent of the suburban zone is to provide for and protect low density, semi-rural residential development chiefly in outlying transitional areas where a mixture of residential and traditionally rural land uses will be compatible. (Ord. 83-Z-2 (part), 1983).

17.22.020 Uses permitted.
Uses permitted in the suburban II zone shall be as follows:

1. Single-family homes;
2. Mobile homes;
3. Duplexes;
4. Accessory buildings;
5. All types of agriculture not otherwise restricted;
6. The grazing or raising of animals (excluding swine and mink), providing an area of not less than one acre is available;
7. Any use not listed which is nearly identical to a permitted use, as judged by the administrative official, may be permitted. In such cases, all adjacent property owners shall be given official notification for an opportunity to appeal such decisions with ten working days pursuant to Title 15A of this code, Project permit application process. (Ord. 96-19 (part), 1996; Res. 83-10, 1983).

17.22.030 Lot - Size required.
1. Single-family residence shall be not less than one acre with an average width of not less than one hundred fifty feet; provided, however, that minimum lot sizes in platted subdivisions shall be computed on the basis of one lot per gross acre with a minimum size of not less than three-fourths acre. All lots of record at the time of passage of the ordinance codified in this chapter shall be considered as conforming to lot size requirements.

2. Multiple-family dwelling or apartment house requirements shall be the same as for one to two family dwellings. Front, side, rear yards and parking area requirements shall be the same as contained in residential zone. Whenever, by special permit or otherwise, more than one dwelling, building or tourist cabin is erected upon a lot or plot, each dwelling shall be separated from every other such dwelling by a distance of not less than ten feet. (Res. 83-10, 1983).

17.22.040 Maximum lot coverage.
The ground area covered by all buildings, including accessory buildings, shall not exceed thirty percent of the lot area. (Res. 83-10, 1983).

17.22.050 Maximum height permitted.
No structure shall exceed two and one-half stories or thirty-five feet, whichever is less in height. (Res. 83-10, 1983).

17.22.060 Yard requirements.
No structure shall be built or located closer than twenty-five feet to the front and rear property line or within fifteen feet of any side property line. (Res. 83-10, 1983).

17.22.090 Grazing.
Grazing of cattle, sheep, goats or horses may include the supplementary feeding of such cattle or horses or both, provided that such grazing is not part of nor conducted in conjunction with any dairy, livestock feed yard, livestock sales yard or commercial riding academy located on the same premises; provided, further, that no buildings or structures designed or intended to be used for housing or concentrated feeding of such stock be located less than one hundred feet from any public street or highway or less than fifty feet from any property held under different ownership from that upon which such shed or barn is located. (Ord. 88-4 § 2 (part), 1988; Res. 83-10, 1983).

17.22.100 Conditional uses.*
The following uses may be permitted in any suburban zone subject to the conditions set forth in Chapter 17.60, providing that they are not in conflict with existing or proposed development in a particular area; it is the intent of this code that such uses are subordinate to the primary residential and agricultural uses of this zone:

1. Community clubs;
2. Convalescent homes;
3. Dairying and stock raising except the raising of swine commercially and the establishment of livestock feed lots, provided that no permit shall be issued for dairying or stock raising on any tract of land having an area of less than nine acres or for animal shed or barns to be located less than one hundred feet from any property held under different ownership from that upon which such shed or barn is located;
4. Greenhouses, nurseries;
5. Home occupations;
6. Museums;
7. Public utility substations;
8. Riding academies;
9. School, public and private;
10. Governmental uses essential to residential neighborhoods;
11. (Deleted by Ord. 83-Z-2)
12. (Deleted by Ord. 90-6)

* Editor's note: Subsection letters in this subsection reflect the letters assigned by the document adopted by Res. 83-10, as amended by Ord. 83-Z-2.

17.22.110 Location of main dwelling.
No main dwelling shall be built or moved onto a lot not abutting a public right-of-way.
(Ord. 88-4 § 2 (part), 1988).

Chapter 17.24
T-C - TRAILER COURT ZONES*

Sections
17.24.010 Purpose and intent.
17.24.020 Permitted uses.
17.24.030 Minimum requirements.
17.24.040 Yard requirements.
17.24.050 Design standards.
17.24.060 Plot plan required.
17.24.070 Off-street parking.

17.24.010 Purpose and intent.
The purpose and intent of the trailer court zone is to provide for planned mobile home developments at densities consistent and compatible with surrounding residential densities. (Ord. 83-Z-2 (part), 1983).

17.24.020 Permitted uses.
Permitted uses are as follows:

1. Trailers (mobile homes);
2. Single family homes;

17.24.030 Minimum requirements.
The minimum lot area and yard requirements in a TC zone are as follows:

1. Mobile Homes. The minimum area for a trailer (mobile home) court site shall be three thousand five hundred square feet times the number of individual trailer sites to be provided. Densities must have the approval of the county health office.
2. Single Family Home. The requirements are the same as the requirements of the suburban district. (Res. 83-10, 1983).
FIVE PERCENT DEDICATED TO
AFFORDABLE / ATTAINABLE HOUSING

Possibilities in relationship to the dedication of Five percent:

5% of the proposed 304 acres = 15.2 acres

15 acres at 4 density units per acre = 60 units @ 2.25 per house hold = 135 people
15 acres at 6 density units per acre = 90 units @ 2.25 per house hold = 202 people
15 acres at 8 density units per acre = 120 units @ 2.25 per house hold = 270 people
and retail sales growth. There is also an increase in tourist activity in the area, driven by new developments in and around Ellensburg, such as the Suncadia resort. The City encourages an increase in density in specific areas, preserving and conserving ecologically sensitive land, and pacing expansion into the UGA to match the City’s ability to provide services. Population growth will increase demand on schools, parks, open spaces, retail goods, services, institutions and industrial land. Although there will be increases in land consumed, the community expresses a desire to maintain Ellensburg’s character by projecting that character onto future land development, preserving the compact urban pattern established within the city’s core while allowing for well-planned residential, commercial, industrial and institutional growth in appropriate areas that may lie outside the CBD.

**Residential**

If Ellensburg expects to house its forecast population of 23,000, and if household size continues at 2.25 persons per household, the community will need approximately 3,100 more housing units constructed over the next 25 years. At a minimum density of four units per acre, Ellensburg will need to develop approximately 780 acres for new single-family neighborhoods. These land consumption figures can be altered by varying the number of persons per household, and/or by introducing new housing types. The differences in land demand can be quite striking (*Table 4.1*). Figure 4.5 illustrates the extent and density of Ellensburg’s current residential land use.

If Ellensburg continues to grow with new housing units predominantly as single-family structures, it will need to convert approximately 780 acres of open land into housing. If, however, Ellensburg were to concentrate its housing growth into more attached housing units and fewer single-family housing structures, it could accommodate its population growth by converting only 590 acres of open land into new housing.
August 25, 2006

Patrick Deneen
PO Box 808
Cle Elum, WA 98922

Re: Reecer Creek/ Bender Road Property

Dear Patrick:

During a public Board meeting, held August 23, 2006, in Ellensburg, Washington the Board of Directors of the Ellensburg School District authorized me to enter into negotiations, with you, for the purpose of purchasing property to locate a new middle school and elementary school.

Please accept this correspondence as a formal intent to enter into negotiations to purchase 25 acres of property. The property is located west of Reecer Creek Road and directly across from the intersection of Bender Road.

The purchase of this property is subject to a number of contingencies. We will be working with Mr. Tony Anselmo to help us develop a purchase and sale agreement that addresses these contingencies. Tony is an attorney with the Spokane, Washington law firm of Stevens-Clay-Manix.

While there are numerous details to work out I believe there are two issues that we have reached agreement on: 1) The purchase price of the property is $60,000/acre. 2) The Board is committed to using whatever influence or authority it possesses to have the property included in the Urban Growth Area (UGA). Mr. Anselmo has been informed of this last condition and is researching the process and authority of the school district regarding this action.

I want to personally thank you for your responsiveness in this matter and I look forward to working with you in what I am sure will be a productive, fair and mutually rewarding endeavor.

Please do not hesitate to contact me with any questions or concerns. You may reach me at work 509-925-8010, at home 509-925-7682 or via e-mail jglenewinkel@wonders.enburg.wednet.edu.

Sincerely,

John Glenewinkel
Superintendent Ellensburg School District

cc: Tony Anselmo
Bob Haberman, Board of Directors, President
Industrial

Ellensburg does not now have a comprehensive economic development strategy, but the community has expressed desires for improving local employment opportunities. Community members have spoken of attracting manufacturing, transportation and business park types of uses within the UGA. In the short term, areas most suited for these types of uses are located near the Ellensburg airport, along the Dolarway Road corridor between the CBD and the west interchange, and between the railroad and the freeway south of West Ellensburg Park.

Much of the land designated for industrial development near Interstate 90, however, is constrained by the floodplain or by wetlands. Throughout the City, much of the land currently zoned for industrial uses is not served with the infrastructure needed to make it immediately available and attractive to prospective businesses.

If Ellensburg wishes to increase its supply of industrial land to facilitate industrial expansion, it may wish to make more industrial land available in less-constrained areas within the city limits and UGA, to expand the UGA to encompass attractive industrial development sites, and/or develop City-owned land south of West Ellensburg Park to help jump-start industrial projects.

Institutional

Central Washington University, Kittitas Valley Community Hospital, the Kittitas County facilities, Ellensburg’s parks, and the various schools and offices of the Ellensburg School District are some of the community’s most visible institutions. There are other institutions, however, that are also important to establish and maintain the sense of community Ellensburg residents treasure. The library, food bank, houses of worship, post office, and other non-profit or government sponsored, community-based institutions also help hold the community together. As Ellensburg grows, land and resources will need to be dedicated to these uses to ensure the new residents can enjoy the same level of service that current residents do.
Property Summary (Appraisal Details)

Parcel Information
- Parcel Number: 10167
- Map Number: 18-18-21040-0006
- Situs: 02910 FAUST RD ELLensburg
- Legal: ACRES 10.02, CD. 8643-2; SEC. 21, TWP. 18; RGE. 16; PTN. SW1/4 SE1/4 SLY OF TOWN;
DITCH (PARCEL A SURVEY #577584 B20/P159)

Ownership Information
- Current Owner: SINCLAIR, BASIL L.
- Address: 2910 FAUST ROAD
- City, State: ELLensburg WA
- Zipcode: 98926

Assessment Data
- Tax District: 22
- Open Space: YES
- Open Space Date: 1/1/1978
- Senior Exemption: 
- Deeded Acres: 10.02
- Last Revaluation for Tax Year:

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Sales History
NO SALES HISTORY RECORDS FOUND!

Building Permits
- Permit No.: 94-10065
- Date: 10/21/1994
- Description: RESOB
- Amount: 40,572

5 Year Valuation Information

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NO PARCEL COMI 73; THIS RECORD!
**Kittitas County Treasurer**

205 W 5th Ave Suite 102
Ellensburg, WA 98926
Phone: (509)962-7533
Fax: (509)933-8212

**Parcel Information**

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### Prior Tax Years Interest as of 8/16/2006

**NO INFORMATION FOUND FOR THIS PARCEL**

Filedate: 8/15/2006 5:04:48 PM
**Property Summary (Appraisal Details)**

**Parcel Information**
- **Parcel Number:** 709233
- **Map Number:** 18-18-21040-0001
- **Situs:** 02912 FAUST RD ELLensburg
- **Legal:** ACRES 62.68, CD: 8643; SEC: 21; TWP: 18; RGE: 18; PRT: SE1/4 SLY OF TOWN DITCH (PARCEL B SURVEY #577594 B20/P189; ACREAGE NOT SURVEYED)

**Ownership Information**
- **Current Owner:** SINCLAIR, ARTHUR E. ETUX
- **Address:** 2912 FAUST RD
- **City, State:** ELLensburg WA
- **Zipcode:** 98926

**Assessment Data**
- **Tax District:** 22
- **Open Space:** YES
- **Open Space Date:** 1/1/1978
- **Senior Exemption:**
- **Deeded Acres:** 62.68
- **Last Valuation for Tax Year:**

**Market Value**
- **Land:** 169,240
- **Imp:** 176,130
- **Perm Crop:** 0
- **Total:** 347,370

**Taxable Value**
- **Land:** 29,550
- **Imp:** 178,130
- **Perm Crop:** 0
- **Total:** 207,680

**Sales History**
- **Date:** 02-01-1995
- **Book & Page:** 39741
- **# Parcels:** 2
- **Grantor:** SINCLAIR, BASIL L.
- **Grantee:** SINCLAIR, ARTHUR E. ETUX
- **Price:** 250,000

**Building Permits**
- **Permit No.:** 2002-02023, 98-01035
- **Date:** 2/11/2002, 1/29/1996
- **Description:** RADKITCHENADD 300 SQFT, RALT REROOF
- **Amount:** 21,541, 4,000

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**Parcel Comments**
NO PARCEL COMMENTS FOR THIS RECORD!

Photos/Sketches

Filedate: 8/15/2006 5:04:48 PM
# Kittitas County Treasurer

205 W 5th Ave Suite 102
Ellensburg, WA 98926
Phone: (509)962-7535
Fax: (509)933-8212

## Parcel Information

- **Parcel Number:** 706233
- **Map Number:** 18-18-21040-0001
- **Situs:** 02912 FAUST RD ELLensburg
- **Legal:** ACRES 82.68, CD. 8643; SEC. 21; TWP. 18; RGE. 18; PTN. SE1/4 SLY OF TOWN DITCH (PARCEL B SURVEY #575764 B20/P159; ACREAGE NOT SURVEYED)

## Ownership Information

- **Current Owner:** SINCLAIR, ARTHUR E. ETUX
- **Address:** 2912 FAUST RD
- **City, State:** ELLensburg WA
- **Zipcode:** 98926

## Current Tax Year 2006

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<th>Type</th>
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## Prior Tax Years Interest as of 8/16/2006

NO INFORMATION FOUND FOR THIS PARCEL

Filedate: 8/15/2006 5:04:48 PM
Mike Smith - Items to consider for Planning commission

From: Martin Kaatz <marcar@elltel.net>
To: <smithm@CITYOFELLENSBURG.ORG>
Date: 9/21/2006 2:10 PM
Subject: Items to consider for Planning commission

Mike,
I don't know if you are aware that the county planning commission voted down several UGA requests at their last meeting, including some that were on our City Planning commission agenda. I do not have a copy of their rationale, but I have attached a copy of a communication that they received that may have some bearing on the subject.

Also attached is a copy of the County's regulations re-UGAs. I don't know if our planning commissioners have ever seen this document, but it appears to be helpful in understanding UGA procedures.

RCW 36.70A.110 Comprehensive plans - Urban growth areas is another important document concerning UGAs.

Martin
August 21, 2006

Mr. Darryl Piercy, Director
Kittitas County Community Development Services
411 North Ruby Street, Suite 2
Ellensburg, Washington 98926

RE: Proposed 2006 comprehensive plan amendments and update

Dear Mr. Piercy:

Thank you for sending the Washington State Department of Community, Trade and Economic Development (CTED) the proposed amendments to Kittitas County’s comprehensive plan and development regulations that we received on August 8, 2006. We recognize the significant amount of time and energy these proposals represent.

When cities and counties work with citizens to discuss their priorities for the future, they must balance important considerations—using land wisely, providing the foundation for economic vitality, and protecting environmental and natural resources. In crafting your comprehensive plan and development regulations to meet the unique needs of your community, you, along with other local governments planning under the Growth Management Act (GMA), have made important and long-lasting choices. These choices can sustain the quality of life that makes Washington a remarkable place to live and create the predictability needed for economic investment.

We have begun to review the many comprehensive plan amendments proposed as well as the comprehensive plan update materials. However, as the submittal was just recently received, and the hearings begin August 21, 2006, we respectfully request that this testimony for the public hearings be considered as preliminary comments. CTED intends to submit additional testimony prior to close of the 60-day review period, once the proposals have been reviewed in greater detail. Therefore, we request the Planning Commission, at a minimum, leave the public testimony portion of the hearings open until close of the 60-day review period.

Our comments will be separated in two parts. First, our comments will focus on the 2006 annual docket of comprehensive plan amendments, which consist of 19 proposals. Second, our comments will address the amendments to the comprehensive plan proposed as part of the update process.

Annual Comprehensive Plan Amendment Docket Items:
The annual docket comprehensive plan amendment items submitted to CTED for review and comment consisted of the 19 applications (as posted on the Kittitas County CDS website on August 8, 2006) and the staff report prepared by Ms. Joanna Valencia, Planner II, dated August 16, 2006, which we received on August 18, 2006.

Natural Resource Lands De-designation
We are concerned because several of the requests include the de-designation of forest and agricultural resource lands of long-term significance to a designation of rural. Together, the applications comprise over 7,400 acres
of designated resource lands in Kittitas County. We are concerned about the citizen-initiated proposals to de-designate commercial forest and agricultural lands to higher intensity land uses. We recognize that Kittitas County is experiencing some unique development pressures from people who live in other parts of the state who want to take advantage of the many outdoor recreational opportunities that Kittitas County can offer. Suncadia Resort and Central Washington State University are also big draws for people who are looking for alternatives to more urban lifestyles.

Resource lands and critical areas were designated first so that they could be protected and conserved. This is a fundamental application of the principle that “the land speaks first”. We are concerned that adoption of this proposal could substantially interfere with the county’s duty under Goal 8 of the GMA to conserve forest resource lands of long-term commercial significance.

We recognize that market pressures have greatly inflated land prices and that, when combined with the lack of water rights, are enticing property owners of properties of resource lands of long-term significance to convert their resource lands into rural, single-family development. However, we would request you consider the following while reviewing these applications:

- The designation of natural resource lands (agriculture, forest, and mineral lands) was the first step Kittitas County took in developing its comprehensive plan. This step is key to determining where appropriate rural development can take place while still protecting important natural resource lands. These designations were made at the county-wide basis. We are concerned with removing natural resource land designations on a parcel-by-parcel basis. This approach is not comprehensive; it does not look at the cumulative effects of this decision, and it has the ability of affecting other resource land designations and the industries these lands support. We suggest a better approach to reviewing the natural resource land designations is to look at the entire county, as part of the update process.

- Both the Washington State Supreme Court and the Eastern Washington Growth Management Hearings Board (EWGMHB) have considered the issue of de-designation of natural resource lands. Several key themes have emerged from these reviews. The Washington State Supreme Court finds evidence of a legislative mandate to conserve natural resource lands [King County v. Central Puget Sound Growth Management Hearings Board, 142 Wn.2d 543, 562 (2000)]. The EWGMHB found a rigorous record justifying any de-designation as an essential component of the de-designation action [2-1-0008 – Wenas Citizens Association v. Yakima County]. From the information submitted, and given the fact that many of these applications were not submitted until the end of May of this year, it does not appear that this sort of an analysis was conducted.

- When deliberating these comprehensive plan amendments and rezone requests, we suggest Kittitas County review the criteria originally used to categorize agricultural and forest lands and consider if conditions have changed to warrant approval of this amendment or if the earlier decision to designate these lands was made in error. In addition, you may want to consider the Minimum Guidelines to Classify Agriculture Forest, Mineral Lands and Critical Areas (WAC 365-190-050) to further assess whether these lands no longer qualify as natural resource lands. Finally, when making your decision, it will be crucial to develop a rigorous record detailing the reasoning behind your decision.

The record should, at a minimum, include items such as:

1) A review of how and why the properties involved were designated as agricultural or forest resource lands of long-term significance originally.

---

1 Bremerton vs. Kitsap County, CPSGMHG Case no. 95-3-0039, Final Decision and Order.
2) An analysis of the applicable factors that have changed since the original classification,
3) The existing criteria for designation of resource lands,
4) A statement of whether or not the proposed properties do or do not meet the designation criteria
today,
5) A specific recommendation and findings of fact to support the recommendation

The subject properties were originally deemed to be resource lands of long-term commercial significance. The
existing record does not show that a reassessment process has been conducted. Without evidence to support that
changed circumstances or new information regarding the original designations, CTED cannot support the de-
designation of resource lands of long-term commercial significance. We recommend the county not pursue
redesignation of designated resource lands until it can conduct the analysis necessary to support its decision.

**Urban Growth Area (UGA) Expansions**
Several of the proposals involve expansions to the UGA for various communities in the county. We are
concerned that the record does not contain any of the information necessary to support the expansion of the
UGA. We did not see any discussion in the staff report or the individual applications of how much population is
needed in these communities, how much additional residential or commercial capacity will be provided by these
expansions or what the proposed development densities will be. These are usually part of a Land Capacity
Analysis. Prior to expanding the UGA, the record must contain a land capacity analysis showing how much
additional land is needed to accommodate the project population.

Once it has been determined that new land is needed, the county should use the location criteria found in RCW
36.70A.110 to determine which parcels are most suitable for new urban growth. We did not see in the staff
report or in the individual applications any discussion of how these locations meet the location criteria for a
UGA expansion. Prior to making determinations regarding expansion of an urban growth boundary,
information should be provided demonstrating the proposals do or do not meet the criteria outlined in RCW
36.70A.110 for urban growth areas. The GMA also requires that the expansion of a UGA be accompanied by a
financially realistic capital facilities plan. We did not see in the staff report or the individual applications we
reviewed any discussions of what the demand for urban services will be and how adequate public facilities will
be provided. Prior to an expansion of the UGA, the record must contain a plan for providing adequate public
facilities.

**Urban Growth Node Expansions**
Over the years there have been questions regarding the Urban Growth Nodes (UGNs). It is my understanding
the county developed them in their initial comprehensive planning efforts as a means to identify areas where
clusters of development had located in more rural areas over the years, outside of existing cities or towns. Later,
the Growth Management Act was amended to include criteria for Limited Areas of More Intense Rural
Development, known as LAMIRDs.

At this point, it is not entirely clear whether these urban growth nodes are more like unincorporated Urban
Growth Areas or more like LAMIRDs. One of the issues the county will need to address in the update is
whether these areas are UGAs or LAMIRDs. Before Urban Growth Nodes are considered for expansion, CTED
recommends the county identify which category they fall in so it is more clear which designation standards will
apply. CTED believes it is premature to expand the Ronald UGN without benefit of an analysis to demonstrate
need, appropriate zoning designation, and ability to provide adequate facilities and services.

**Mapping of Proposed Amendments**
Each of the applications appear to be under consideration separately, at least for the purpose of providing
locational maps of the subject properties. The maps we saw were maps showing each individual application.
For the purpose of taking public comment and reviewing the applications, it is critical that they are viewed in
context. CTED suggests that mapping be prepared that depicts the properties for similar proposals. For example, applications 06-05, 06-06, and 06-13 are adjacent to each other. The decision for the request to expand the Ellensburg UGA may affect the decision to de-designate agricultural resource lands and vice-versa. The same can be said for the three proposals to expand the City of Kittitas UGA or the three proposals to expand the Ronald UGN. Other applications are clustered near the Sunacadia property between the Cities of Roslyn and Cle Elum. CTED also recommends that the county prepare tables totaling the acreage of the expansions and identifying how much additional development capacity is being proposed in total and for each UGA.

**Comprehensive Plan Update Process**

The information submitted for the comprehensive plan update recommendations is currently being reviewed. CTED applauds the efforts of the staff and citizens of Kittitas County to update the comprehensive plan and will provide comments under separate cover, prior to close of the 60-day comment period.

If you have any questions or concerns about our comments or any other growth management issues, please contact me at (360) 725-3045 or joyce@cted.wa.gov. We extend our continued support to Kittitas County in achieving the goals of growth management.

Sincerely,

Joyce Phillips, AICP
Senior Planner
Growth Management Services

JP:lw

cc: Joanna Valencia, Staff Planner
    The Honorable Robert Cousart, Mayor, City of Kittitas
    The Honorable Charles Glondo, Mayor, City of Cle Elum
    The Honorable Jeri Francisco-Porter, Mayor, City of Roslyn
    The Honorable James Devere, Mayor, Town of South Cle Elum
    Chris Parsons, Washington State Department of Fish and Wildlife
    Leonard Bauer, AICP, Managing Director, Growth Management Services, CTED
    David Andersen, AICP, Plan Review and Technical Assistance Manager, Growth Management Services, CTED
Urban Growth Areas and Urban Growth Nodes

Though the areas included within the urban growth area boundaries are intended to urbanize and become annexed in the proceeding 20 years, these lands will continue to be under County jurisdiction. To ensure both consistency and coordination, the planning for these areas will be done in concert with the respective cities. In addition, interlocal agreements with the individual cities may be necessary to provide the necessary administrative guidance and services to these unincorporated areas.

Two major issues arise in the discussion of urban growth area boundaries. These include phased growth and transitional land uses. Most communities preparing plans for the urban growth area have elected to plan under a phased growth scenario. The overall concept of phased growth indicates that growth will occur in "phases." The first phase usually includes those areas that are already served by public water and/or sewer, and where the second phase of growth will occur in areas where services do not presently exist but are eventually. The inclusion of land within an urban growth area indicates that the land will be developed at an urban density within the next 20 years. Therefore, the existing Agricultural Land Use or Rural Residential Land Use within the urban growth areas will eventually transition from Agricultural Land Use to Urban Residential Land Use which serves the 20-year forecasted population. This transition from Agriculture Land Use to Urban Residential Land Use within the urban growth area will require land uses and densities which allow this change to occur in as efficient a manner as possible.

As portions of the urban growth areas develop, it is assumed that these areas will be annexed to the adjacent city. Intergovernmental agreements will need to be created in order to deal with the allocation of financial burdens that result from the transition of land from county to city jurisdiction. Similarly, agreements will need to be drafted to coordinate planning efforts for the unincorporated areas of the urban growth areas and with facility providers in the urban growth nodes. Kittitas County has offered the opportunity to prepare an interlocal agreement with the cities for the preparation of a draft urban growth area plans. This agreement and the work resulting from it are expected to be completed in the end of 1996.2008. The following are additional issues that must be resolved by the cities and Kittitas County for the preparation and implementation of goals, objectives and policies contained in this comprehensive plan:

*Joint interlocal agreements:
1) Unified or consistent subdivision code;
2) Municipal utility extension agreement for water, sewer and gas;
3) Intergovernmental service agreements for libraries, fire, EMS, parks and recreation;
4) Unified or consistent zoning code with provisions for urban zoning, transitional zoning, and other transitional uses;
5) Density and land use mapping;
6) Airport Facility-flight safety zones, density, land uses, expansion of the airport and services provided for the City of Ellensburg;
7) Extension and acquisition of Rights-of-Way;
8) Unified or consistent road standards, stormwater standards and level of service; and,
9) Annexation agreements.
10) Shorelines development plan

*This list is not intended to be all inclusive of issues to be addressed through
interlocal agreements with the cities but specific issues which may affect the
Kittitas County Comprehensive Plan.

The individual cities within Kittitas County are responsible for developing a final urban
growth area boundary, future land use plans for the unincorporated portion of their
respective urban growth areas, and facility or service needs to accommodate the 20-year
population growth. These plans are to be submitted to Kittitas County for consideration
and ultimately adoption as a portion of the Kittitas County Comprehensive Plan. RCW
36.70A.110(5) states, "Final urban growth areas shall be adopted at the time of
comprehensive plan adoption under this chapter..." and RCW 36.70A.110(6) states,
"Each county shall include designations of urban growth areas in its comprehensive
plan."

GPO 2.94c Development of a subarea plan to investigate expansion north of the City of
Ellensburg.
GPO 2.94d Allow for the flexibility of minimum density standards in urban growth areas
where Critical Areas are present in order to provide the highest level of protection
GPO 2.95 Within the UGAs and UGNs, in the absence of urban utilities, a
system of subdivision and development should be encouraged which would produce a
pattern capable of re-division to a higher density at such time when utilities are available.
GPO 2.96 Adopt urban growth node (UGN) and urban growth area (UGA) boundaries to
accommodate residential and employment increases projected within the boundaries over
the next 20 years

GPO 2.97 The UGNs and/or UGAs shall be consistent with the following criteria:
a. Each UGN and/or UGA shall provide sufficient urban land to accommodate
future population/employment projections through the designated planning period.
b. Lands included within UGNs and/or UGAs shall either be already characterized by
urban growth or adjacent to such lands.
c. Existing urban land uses and densities should be included within UGNs and/or UGAs.
d. UGNs and/or UGAs shall provide a balance of industrial, commercial, and residential
lands.
e. Each UGA shall have the anticipated financial capability to provide
infrastructure/services needed in the areas over the planning period under adopted
concurrency standards.
f. Protect natural resource and critical areas
g. Encourage the conversion of undeveloped lands into urban densities.
h. Provide for the efficient provision of public services;
i. Promote a variety of residential densities; and,
j. Include sufficient vacant and buildable land for future urban densities.
GPO 2.99 98 Per RCW 36.70A.06094) forest land and agricultural land located within urban growth areas shall not be designated by a county or a city as forest land or agricultural land of long-term commercial significance under RCW 36.70A.170, unless the city or county has enacted a program authorizing transfer or purchase of development rights.

GPO 2.99 Reserved
Commercial Land Use The present and long established land use pattern in Kittitas County is the basis for planning future business development. That pattern finds most business located in established communities and/or business districts.

GPO 2.100 Kittitas County will act to preserve the viability and integrity of existing business districts within the incorporated and unincorporated county.
GPO 2.101 Most comparison shopping (general merchandise, clothing, appliance, auto, sporting goods) should be located in or near existing business districts.
GPO 2.102 Neighborhood "convenience" business outside urban areas serving rural districts or demonstrated motorist needs should be encouraged in appropriate areas.
GPO 2.103 Home occupations which result in accumulations of vehicles, appliances, or other materials should be regulated, licensed and required to provide sight screening from adjacent properties and roadways.
GPO 2.104 Highways and roads should not be developed with new commercial sites without compelling reasons and supporting economic data. Expansion and full development of existing business districts is encouraged.
GPO 2.105 I-90 exits shall not be considered as new business sites unless an Interchange Zone Classification is developed.
GPO 2.106 Kittitas County recognizes home occupations and cottage industries as valuable additions to the economic health of the community. In addition, where distances from other employment warrants, limited-dispersed rural business activities (LD-RBAs) of low impact and with necessary infrastructure will be encouraged on a case by case basis as long as these sustain or are compatible with the rural character of their area in which they locate.
GPO 2.107 Limited-dispersal rural business activities (LD-RBAs), not necessarily resource-based, including but not limited to information, legal, office and health services, arts and crafts, clothing, small manufacture and repair may be located as an overlay zone in all rural and resource lands in the county as long as they are compatible with the rural character of the area in which they locate.

GPO 2.107A Designate sufficient available land for specialized commercial uses that are by their nature compatible with residential, agricultural, recreational, and other general land use types.
GPO 2.107B Promote large scale commercial development within the UGAs and UGNs by encouraging infrastructure improvements and new business recruitment.
GPO 2.107C Promote small scale commercial development outside of UGAs and UGNs when compatible with adjacent land uses.
GPO 2.107D Encourage an adequate inventory of developable property to accommodate the siting of new, and the expansion of existing, commercial uses.
GPO 2.107E Identify areas where mixed commercial and industrial uses can be sited if compatibility is evident. Industrial Land use It is the objective of this plan and the policy of the County to improve conditions, insofar as possible, to attract industry.

GPO 2.108 Location of Industrial Land. There should be sufficient industrial land in the county located in areas convenient to utilities, fire protection and to major transportation facilities (air, rail, freeway). Industrial developments may be permitted beyond urban growth areas.

GPO 2.109 Compatibility. Industry located adjacent to residential areas or along scenic routes should be situated so as to minimize impacts on those areas and should provide screening and other measures to achieve compatibility.

GPO 2.109A Designate sufficient available land for specialized industrial uses that are by their nature compatible with residential, agricultural, recreational, and other general land use types.

GPO 2.109B Promote industrial development within the UGAs and UGNs by encouraging infrastructure improvements and new business recruitment.

GPO 2.109C Encourage an adequate inventory of developable property to accommodate the siting of new, and the expansion of existing industrial uses.

GPO 2.109D Identify areas where mixed commercial and industrial uses can be sited if compatibility is evident.
AGENDA REPORT

DATE: September 25, 2006

TO: City Council

THRU: Ted Barkley, City Manager

FROM: Mike Smith, Senior Planner

RE: PUBLIC HEARING – Legislative
2006 Annual Comp Plan Amendments and UGA Boundary Expansion Requests

NOTE: Due to the lengthy public record established during the process to date, all exhibits to the public record have been placed in an ADDENDUM which was sent to City Council along with the Agenda containing this Agenda Report and they will be entered into the public record at the Council public hearing.

A. Summary: Council has docketed three proposed annual Comprehensive Plan Amendments for the 2006 amendment cycle and has set October 2, 2006 for a public hearing on the proposed amendments.

B. Background: On July 3, 2006 City Council docketed all three proposed annual Comprehensive Plan Amendments submitted for the 2006 amendment process. They are:

06-01 Annual update of the various 6-year Capital Facility Plans
This is an annual housekeeping amendment to update the various 6-year capital facility plans and should require little staff time or public discussion. (Attachment A-1)

06-02 Amend the Table of Contents and the Amendment Summary pages of the Comp Plan and UGA FIGURE H – Future UGA Land Use Map
Housekeeping amendment to reflect any amendments that might be adopted during this annual amendment process. (Attachment A-2)

06-03 Amend the Ellensburg UGA Land Use Map to expand the Urban Growth Area Boundary to the northwest west of Reecer Creek Road and north of Old Highway Ten.
This is a request from TerraDesign Works, representing Teanaway Ridge LLC, Cle Elum Pines East LLC, and Cle Elum Pines West LLC., to add some 304.49 acres of unincorporated land into the Ellensburg Urban Growth Area (UGA). The land is situated west of Reecer Creek Road over to Faust Road and down to the Old Highway Ten. The applicant has made a similar amendment request to Kittitas County. This amendment is for City recommendation to the County Commissioners only because the Growth Management Act (GMA) gives the County the authority to establish the UGA boundary but requires that the City give a recommendation and demonstrate the appropriateness for unincorporated lands to be included within the UGA. (Attachment A-3)

The proposed amendments were routed for State Environmental Policy Act comment as a non-project action and the SEPA Responsible Official issued a Determination of Non-Significance (DNS) on September 25, 2006. Attachment ‘B’
Additional UGA Expansion Requests
In addition to those docketed annual amendments, the City has received several requests to add property into the UGA during the concurrent larger Comprehensive Plan Update process and City Council requested that the Planning Commission review those requests and make a recommendation. Those additional UGA expansion requests are:

A-4  Request from several property owners on the west side of Mathews Road to include their properties in the UGA. (Attachment A-4)
A-5  Request from the Economic Development Group of Kittitas County to include the Airport property situated north of Bowers Road and west of the Airport runway in the UGA in order to include in the UGA that area that has been identified for future industrial land uses in the Bowers Field Airport Industrial Park Master Plan that the County adopted in June 2004. Bowers Road is the current UGA boundary in that area. NOTE: This request has been expanded to include in the UGA all of the Airport property that is located between Bowers Road and Hungry Junction Road. (Attachment A-5)
A-6  Request from Fritz Glover to include all of the land north of Bowers Road up to Hungry Junction Road between Look Road and Reecer Creek Road in the UGA. The request is in order to establish an adequate supply of appropriately zoned land for future industrial expansion. Note: Mr. Glover has since withdrawn this request on the basis that the Economic Development Group of Kittitas County has expanded its UGA expansion request (A5) to include all of the Airport property south of Hungry Junction Road. (Attachment A-6)

The Planning Commission considered the proposed amendments and the additional UGA expansion requests at a September 14 public hearing that was continued to September 21, and has made a recommendation to City Council that proposed amendments 06-01 and 06-02 be approved, and that proposed amendment 06-03 be recommended for denial by the County Commissioners because there has not been a detailed analysis of UGA land needs for expansion. They also have recommended that all of the additional UGA expansion requests be denied on that same basis. The Planning Commission minutes are found as Attachment ‘C’.

C. Analysis: Each of the proposed annual amendments (A-1 thru A-3), as well as the additional UGA expansion requests (A-4 thru A-6) are set out as individual attachments to this Agenda Report which includes supporting documentation, a list of items entered into the record that are included in the separate ADDENDUM, a list of people who testified, and the Planning Commission’s recommendation.

D. Recommendation: 1. Conduct public hearing on annual amendments and on UGA expansion requests.
2. Consider the proposed annual amendments.
3. Direct staff to prepare an ordinance to adopt proposed amendments 06-01 and 06-02.
4. Consider proposed amendment 06-03 and direct staff to prepare an appropriate transmittal letter to the Kittitas County Commissioners containing Council’s recommendation.
5. Consider the proposed additional UGA expansion requests and provide direction to staff.
06-03 Amend the Ellensburg UGA Land Use Map to expand the Urban Growth Area Boundary to the northwest west of Reecer Creek Road and north of Old Highway Ten.

This is a request from TerraDesign Works, representing Teanaway Ridge LLC, Cle Elum Pines East LLC, and Cle Elum Pines West LLC., to add some 304.49 acres of unincorporated land into the Ellensburg Urban Growth Area (UGA). The land is situated west of Reecer Creek Road over to Faust Road and down to the Old Highway Ten. The applicant has made a similar amendment request to Kittitas County. This amendment is for City recommendation to the County Commissioners only because the Growth Management Act (GMA) gives the County the authority to establish the UGA boundary but requires that the City give a recommendation and demonstrate the appropriateness for unincorporated lands to be included within the UGA.

The applicant has provided a letter outlining the reasons for the request. In brief, the applicant contends that future growth directions for Ellensburg are limited due to pre-existing development patterns to the east, the Yakima River and its associated floodplain issues to the south, and the Airport Overlay District to the north. The applicant believes that the most logical area to easily accommodate future growth of the City is to the west which is in large, mostly undeveloped parcel patterns with minimal scattered ownership issues, and in relative close proximity to existing City water service and sewer lines.

As part of the City’s full Comprehensive Plan Review and Update process, the City’s consultant has performed a land needs analysis and has reached the conclusion that the City’s current UGA boundary holds sufficient available land to meet the land use needs required to accommodate the City’s projected 20-year population increase to approximately 23,000 in 2025. That Update process will result in adoption of a new Comprehensive Plan later in 2006, with the final draft Comprehensive Plan to be released in early September and subjected to public hearings in late October.

The proposed area for inclusion in the UGA includes approximately 304 acres with roughly 1/3 (113 acres) currently zoned by Kittitas County as Suburban (suitable for densities of 7,200 square foot lots with urban services) and the balance a mixture of Agricultural-3 zoning with densities of 1 unit per 3 acres for most of it and a smaller area zoned Agricultural-20 with densities of 1 unit per 20 acres.

The GMA prohibits the inclusion in the UGA of agricultural land of long-term commercial significance unless a transfer of development rights program is in place. The agricultural property that is being proposed here for inclusion in the UGA has not been designated by Kittitas County as being of long-term commercial significance, and it is therefore permitted by the GMA to be within a UGA.

This request is concurrently being reviewed by the County as part of its annual amendment process. The City should make some recommendation to the County to assist them in their decision on this proposed UGA expansion. If the decision is to recommend inclusion in the UGA, then it should also include a future land use designation.

Staff has provided notice of the Planning Commission and City Council public hearings to all non-UGA property owners of record within the expansion request area and within 300-feet of the expansion area.
Record Exhibits: (contained in separate ADDENDUM):

A-3a Comprehensive Plan Amendment Proposal Application
- Letter of explanation from applicant
- Exhibit A Map showing proposed UGA expansion area with current zoning and future land uses
- Exhibit B page 10 from City of Ellensburg Draft Comprehensive Plan (dated December 2005) detailing projected 20-year population for Ellensburg and containing a chart detailing a Land Supply Summary by Land Use Scenario
- Exhibit C Conference of Governments (COG) proposed population growth allocation formula through 2025 and COG Minutes for April 26, 2006 meeting at which population growth allocation formulas were adopted
- Exhibit D Map showing floodplain in UGA area south of City along Yakima River
- Exhibit E Kittitas County Code page showing Use Table for the Airport Overlay Zone with map of Zone
- Exhibit F Map showing current City Sewer service in proposed expansion area
- Exhibit G Map showing current City Water service in proposed expansion area

A-3b City created Map of Area

A-3c Table 1, page 13 of City of Ellensburg Draft Comprehensive Plan Supplemental Environmental Impact Statement (SEIS) – Land Supply Summary by Land Use Scenario
(NOTE: This document reflects a change from the earlier Land Supply Table in that the previous High/Low/Medium Density categories have been changed to High and Mixed Residential Density categories. The conclusion of the consultant is the same – The UGA is sufficient in size to accommodate Ellensburg’s growth to approximately 23,000 people over the next 20-years.

A-3d City produced Map showing general areas of undeveloped property within the current UGA. It does not reflect any environmental or geographical constraints that may exist on the future development of those areas and it does not include any re-development potential of already developed areas in the City.

A-3e September 11, 2006 letter from Attorney Slothower indicating that his clients, the Sinclair family, are property owners directly north of the proposed UGA expansion request and are desirous of also having their land included in the UGA once they have successfully had the property removed from the Kittitas County Commercial Agriculture land use designation.

A-3f Draft Comp Plan Table 2.6 – Land Supply Summary by Land Use Scenario submitted by City Planning Staff. The Table is taken from the Draft Comp Plan released to the public September 15, 2006.

A-3g Applicant’s PowerPoint presentation hard copy entitled “Ellensburg UGA Expansion” presented at the Planning Commission public hearing. The packet of materials also included:
- a “Wetland Stream Analysis – Pearson Property, Ellensburg, WA” prepared for the applicant by B-12 Wetland Consulting, Inc.
- a “Wetland Stream Analysis – Dry Creek Property, Ellensburg, WA” prepared for the applicant by B-12 Wetland Consulting, Inc.
• pages 41-42 of the Ellensburg Comprehensive Plan – 2006 Update relating to the Urban Growth Area
• Copy of the Kittitas County Suburban Zoning District
• Table titled “FIVE PERCENT DEDICATED TO AFFORDABLE/ATTAINABLE HOUSING”
• August 25, 2006 letter from Ellensburg School District No. 401 Superintendent Glenewinkel to Patrick Deneen indicating that he has been authorized to enter into negotiations with Mr. Deneen for the purpose of purchasing property to locate a new middle school and elementary school on Mr. Deneen’s property west of Reecer Creek Road across from Bender Road.
• Figure 2 (Sheet 1) of the Ellensburg UGA Wetland Inventory
• Page 44 of the Ellensburg Comprehensive Plan – 2006 Update relating to Industrial Land Use.

A-3h  Kittitas County Assessor Property Summary and Parcel Maps and Kittitas County Treasurer Property Tax Records for the Basil Sinclair property (Parcel No. 18-18-21040-0006)

A-3i  Kittitas County Assessor Property Summary and Parcel Maps and Kittitas County Treasurer Property Tax Records for the Arthur Sinclair property (Parcel No. 18-18-21040-0001)

A-3j  September 21, 2006 e-mail from Martin Kaatz providing several attached items for the Planning Commission to consider regarding the various UGA expansion requests.
  • Letter from WA Community, Trade and Economic Development to Kittitas County outlining the considerations that must be undertaken when UGA boundaries are proposed for expansion
  • Kittitas County Comp Plan GPOs pages 24-29 regarding UGAs.

Planning Commission Public Hearing Testimony (see Minutes -ATTACHMENT C)
• Chad Bala, proponent
• Martin Kaatz, 309 N. Poplar, provided information and expressed concerns
• Jeff Slothower, Attorney for Sinclair family, wants inclusion of Sinclair property
• Pat Deneen, 1890 Nelson Siding Road, applicant/property owner
• Ronald Kuhn, 2129 Reecer Creek Road, adjacent property owner in opposition

Planning Commission Recommendation: (see Minutes - ATTACHMENT C)
The Planning Commission recommends (3-2) denial of proposed amendment 06-03 pending further analysis of developable land availability and land needs in the Ellensburg UGA.
Description of proposal: The City of Ellensburg's proposed 2006 Comprehensive Plan Amendments
06-01 Annual update of the various 6-year Capital Facility Plans
Housekeeping amendment to update the various 6-year capital facility plans.
06-02 Amend Table of Contents and the Amendment Summary pages of the Comp Plan and the UGA Boundary Map
Housekeeping amendment to reflect any changes adopted by Kittitas County in 2006 for the land use designations in the unincorporated Urban Growth Area.
06-03 Amend the Ellensburg UGA Boundary Map to expand the Urban Growth Area Boundary to the northwest by adding in approximately 304 acres west of Reecer Creek Road and north of Old Highway Ten.

Proponent: City of Ellensburg

Location of proposal: 06-01 and 06-02 are non-locational. 06-03 is west of Reecer Creek Road and north of Old Highway Ten Ellensburg, WA

Lead Agency: City of Ellensburg File No. SEPA File S06-20

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment.

An environmental impact statement (EIS) is not required under RCW 43.21C.030(2) (c). This decision was made after review of a completed environmental checklist, review of public and agency comments, and other information on file with the lead agency. This information is available to the public on request.

This DNS is issued under WAC 197-11-340(2). Comments must be submitted by 5 PM on October 9, 2006.

Responsible Official: Robert Witkowski
Title: SEPA Responsible Official

Address: City of Ellensburg Community Development
501 N. Anderson Street
Ellensburg WA 98926
Ph. (509) 962-7232 Fax: (509) 925-8655

Date: September 25, 2006 Signature: [Signature]

Acting Director/SEPA Responsible Official
2. 2006 Annual Comprehensive Plan Amendments—Recommendation to City Council
TAPE RECORDING NO. 20060914-192232

Chair Miller opened the public hearing at 7:40 PM and read the opening statement for legislative public hearings.

Senior Planner Smith gave a staff report. Council has docketed 3 proposed amendments to the Comprehensive Plan as part of the 2006 annual amendment cycle and has routed them to the Planning Commission for review and recommendation. The amendments are listed below along with the record established for the public hearing which consists of the relevant pages contained in the Planning Commission September 14, 2006 Regular Meeting Agenda for this public hearing and other documents submitted at the hearing.

Staff sent notice of the public hearing to all property owners within each of the proposed UGA expansion areas as well as the area 300-feet beyond the proposed expansion areas and placed a legal notice of the public hearing in the Daily Record.

**Proposed Annual Amendment**

06-01 Annual update of the various 6-Year Capital Facility Plans (A-1)
- staff proposal that annually updates the 6-year capital facility plans

**Record**
A-1a Six-Year Transportation Improvement Plan
A-1b Six-Year Water System Improvement Plan
A-1c Six-Year Sewer System Improvement Plan
A-1d Six-Year Shop Facility Improvement Plan
A-1e Six-Year Gas Division Capital Construction Plan

06-02 Amendment of the Table of Contents and the Amendment Summary pages of the Comp. Plan and the UGA FIGURE H – Future UGA Land Use Map to reflect any amendments that are adopted during the 2006 annual amendment process. (A-2)
- a staff housekeeping proposal to keep the Plan updated if any amendments are adopted

**Record**
No documents are available pending adoption of other amendments

06-03 Amend the UGA Land Use Map to expand the Urban Growth Area Boundary to the northwest in the area west of Reecer Creek Road and north of Old Highway Ten. (A-3)
- a proposal by TerraDesign Works, representing property owners, to add some 304.49 acres of unincorporated land into the Ellensburg UGA in the area west of Reecer Creek Road and north of Old Highway Ten. The City must make a recommendation to the County Commissioners who have the authority to amend UGA boundaries.

**Record**
A-3a Comprehensive Plan Amendment Proposal Application
- Letter of explanation from applicant
- Exhibit A Map showing proposed UGA expansion area with current zoning and future land uses
- Exhibit B page 10 from City of Ellensburg Draft Comprehensive Plan (dated December 2005) detailing

Planning Commission: September 14, 2006
projected 20-year population for Ellensburg and containing a chart detailing a Land Supply Summary by Land Use Scenario

- Exhibit C Conference of Governments (COG) proposed population growth allocation formula through 2025 and COG Minutes for April 26, 2006 meeting at which population growth allocation formulas were adopted
- Exhibit D Map showing floodplain in UGA area south of City along Yakima River
- Exhibit E Kittitas County Code page showing Use Table for the Airport Overlay Zone with map of Zone
- Exhibit F Map showing current City Sewer service in proposed expansion area
- Exhibit G Map showing current City Water service in proposed expansion area

A-3b City created Map of Area
A-3c Table 1, page 13 of City of Ellensburg Draft Comprehensive Plan Supplemental Environmental Impact Statement (SEIS) – Land Supply Summary by Land Use Scenario

(NOTE: This document had not been released to the public at time of Agenda Report preparation. It reflects a change from the earlier Table in that the previous High/Low/Medium Density categories have been changed to High and Mixed Residential Density categories. The conclusion of the consultant is the same – The UGA is sufficient in size to accommodate Ellensburg’s growth to approximately 23,000 people over the next 20-years.

A-3d City produced Map showing general areas of undeveloped property within the current UGA. It does not reflect any environmental or geographical constraints that may exist on the future development of those areas and it does not include any re-development potential of already developed areas in the City

A-3e September 11, 2006 letter from Attorney Slothower indicating that his clients, Art and Sherry Sinclair, are property owners directly north of the proposed UGA expansion request and are desirous of also having their land included in the UGA once they have successfully had the property removed from the Kittitas County Commercial-Agriculture land use designation.

A-3f Draft Comp Plan Table 2.6 – Land Supply Summary by Land Use Scenario submitted by City Planning Staff. The Table is taken from the Draft Comp Plan to be released to the public September 15, 2006.

A-3g PowerPoint presentation hard copy entitled “Ellensburg UGA Expansion” presented by the applicant at the public hearing. The packet of material also included:
- a “Wetland Stream Analysis - Pearson Property, Ellensburg, WA” prepared for the applicant by B-12 Wetland Consulting, Inc.
- a “Wetland Stream Analysis - Dry Creek Property,

Planning Commission: September 14, 2006
Ellensburg, WA" prepared for the applicant by B-12 Wetland Consulting, Inc.
- pages 41-42 of the Ellensburg Comprehensive Plan – 2006 Update relating to the Urban Growth Area
- Copy of the Kittitas County Suburban Zoning District
- Table titled “FIVE PERCENT DEDICATED TO AFFORDABLE/ATTAINABLE HOUSING”
- August 25, 2006 letter from Ellensburg School District No.401 Superintendent Glenewinkel to Patrick Deneen indicating he has been authorized to enter into negotiations with Mr. Deneen for the purpose of purchasing property to locate a new middle school and elementary school on Mr. Deneen’s property west of Reecer Creek Road across from Bender Road.
- Figure 2 (Sheet 1) of the Ellensburg UGA Wetland Inventory

A-3h Kittitas County Assessor Property Summary and Parcel Maps and
Kittitas County Treasurer Property Tax Records for the Basil Sinclair
property (Parcel No. 18-18-21040-0006)
A-3i Kittitas County Assessor Property Summary and Parcel Maps and
Kittitas County Treasurer Property Tax Records for the Arthur Sinclair
property (Parcel No. 18-18-21040-0001)

In addition to those docketed proposed annual amendments, the City has received several requests for expansion of the UGA as part of its larger full Comp Plan Update process that is anticipated to be completed later in 2006 with adoption of a new Comprehensive Plan. Council has requested that the Planning Commission also consider those UGA expansion requests and make a recommendation to City Council. These proposals are not part of the annual amendment process and have not been docketed with either the City or County for consideration during the annual amendment process. Any recommendation from City Council to the County Commissioners on these proposed expansions will be made separately from the 2006 annual amendment process. Staff notified all property owners within 300-feet of the requested areas that a request had been made and of the Planning Commission and City Council public hearing dates for the Comp Plan amendments.

Those requests and the supporting record are:
A4 Request from several property owners on the west side of Mathews Road to include their properties in the UGA. The current UGA line is the Pfenning Road corridor that is along the western property line of these Mathews Road properties and the current UGA policies permit extension of utilities 660-feet in residential areas where the UGA boundary is a right-of-way.
Record
A-4a Letter of request from residents
A-4b City produced map of area

A5 Request from the Economic Development Group of Kittitas County to include the Airport property situated north of Bowers Road and west of the Airport

Planning Commission: September 14, 2006
runway in the UGA. Bowers Road is the current UGA boundary in that area. The request is to include that area in the UGA and to properly designate the area along the western boundary of the Airport as future industrial land use as identified in the Bowers Field Airport Industrial Park Master Plan that the County adopted in June 2004.

Record
A-5a City produced map of area
A-5b Map of Airport Industrial Park Master Plan submitted by proponent
A-5c Sept. 14, 2006 letter from the proponent Debbie Strand, Director of the Economic Development Group, explaining the request and her inability to attend the public hearing

A6 Request from Fritz Glover to include all of the land north of Bowers Road up to Hungry Junction Road between Look Road and Reecer Creek Road in the UGA. The request is in order to establish an adequate supply of appropriately zoned land for future industrial expansion.

Record
A-6a City produced map of area
A-6b E-mail request from proponent Fritz Glover
A-6c E-mail response from Dimitri Bader, property owner in effected area in opposition to the proposal
A-6e E-mail to city from Dimitri Bader received Sept. 13, 2006 in opposition to the proposal
A-6f Photo comment submitted Sept. 12, 2006 by Steve Wells, resident in effected area in opposition to the proposal

Public Testimony
06-01 No public testimony was offered by the public.
06-02 No public testimony was offered by the public
06-03 Chad Bala, proponent
  • stated that the City’s consultant for the Comp Plan Update did not perform an in-depth analysis of future land needs and a more detailed analysis was needed.
  • he presented a PowerPoint presentation detailing his professional analysis of the future development potential of the areas surrounding the City and the rationale for inclusion of the area west of Reecer Creek and north of Old Highway Ten in the UGA to accommodate the future growth of the City. In particular the proposed area is in large ownership, is undeveloped, has utilities and transportation systems in the vicinity and is not encumbered with any significant constraints to development.
  • he noted that the Ellensburg School District has approached his clients and have entered into negotiations to purchase property in this area for a new middle school and elementary school and the area should be included in the UGA.

Martin Kaatz, 309 N. Poplar
  • presented his analysis of future land needs for the City based on data contained in the Comp Plan Update
  • there is currently more land in the unincorporated UGA than in the city limits and only 77% of the current unincorporated UGA is needed to meet the highest population and density projections

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• he encourages more compact growth to minimize sprawl and to allow for efficient service provision
• cited a Sept. 14, 2006 article in the Daily Record in which the State Community, Trade and Economic Development Department was critical of proposals pending before Kittitas County to increase several UGA’s without adequate analysis of the criteria for inclusion in a UGA and without a financially realistic Capital Improvement Plan
• he believes the ESD proposal for a school in that area is inappropriate because it will increase traffic, there are no curbs on the main roads and it is a mile from the city limits
• he disagrees with the proponent on the extent of the wetland problem in the large UGA lobe running south of the city along the Yakima River
• he believes that an expansion of 300 acres is excessive

Jeff Slothower, attorney for Sinclair family
• His clients own large acreage immediately north of the proposed UGA expansion and they would like to be included in that expansion. They are currently requesting to be removed by Kittitas County from the Commercial Agriculture land use designation.
• He recommends logical boundaries and believes that the Cascade Irrigation Canal in that area would be such a logical boundary for any UGA expansion in that area.
• He offered that the City’s consultant statement that there is adequate land in the current UGA to accommodate the projected future population growth may be based in part on the redevelopment of some land whereas it is more important to have a readily developable land inventory to meet future population growth than to wait for redevelopment to occur.

Pat Deneen, 1890 Nelson Siding Road, applicant and property owner
• He is a large developer in the County and prefers large parcels so that they can plan the development
• Land to the east of the city is in small parcels and not likely to develop to urban size lots’
• The north has the airport
• The west has the potential for development
• A portion of the requested area 660-feet inward from Recker Creek Road already can be served by City services based on the UGA policy of expanding the utilities where a right-of-way serves as the boundary.
• He will develop the property with City services or with his own utilities. His water right is transferable to a community well and he has in the past developed community sewer systems.
• He would like to develop in the City’s UGA so that he can work with the City on the design of the development. But he can also do it without being in the UGA.
• The site has good access and is bisected by the John Wayne Pioneer Trail that would be used as a non-motorized corridor from the area into the City.
• The ESD wants to site a middle and elementary school on the property.
• He does not think the Sinclair request to also be included would impact his development one way or the other, although that land is immediately adjacent and could also be planned with his development.

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• He would like to see higher densities mixed with lower densities (1/3 acre lots)
• He does not believe that the notion that residential development costs more to provide city services for than they bring in in tax dollars has been documented and his experience is the opposite.

Ronald Kuhn, 2129 Reece Creek Road
• He owns a small parcel adjacent to this area and feels the area is being ruined by development
• Traffic will become a disaster on Reece Creek Road

A-4 No public comment was presented by the audience.

A-5 No public comment was presented by the audience.

A-6 Fritz Glover, 2271 Payne Road, proponent
• Clarified that his request is a private request, although he is also a member of the Economic Development Group that has requested the UGA expansion at the Airport
• He believes that job growth is essential for this area and that a high-technology business park should be planned for to provide that job growth.
• The Airport is suitable for this type of development and the area west of the Airport property should be included in order to provide a sufficient land base. There are roads and utilities already in place and the land is readily developable which would attract business research type industry.
• Mr. Glover presented a series of overhead maps on which he drew various things to demonstrate his point:
  - most of the areas annexed since 1995 are to the north and that is where growth is going
  - the Airport Overlay Zone limits residential densities in the area and makes the land suitable for industrial and technological uses
  - the area to the west beyond the airport property is actually purchasable rather than just leasable as is the airport property and that is attractive to developers
  - Whiskey Creek could form a greenbelt that separated the technology uses from the residential uses further west
  - the land is not suitable for agricultural uses
  - there is an existing traffic route for industrial from West Interchange to Bowers Road
  - land needs for 20 years and beyond needs to be identified and protected now

Dimitri Bader, 2602 Judge Ronald Road
• Large property owner in the expansion area in opposition to the request
• He read his letter dated Sept. 13, 2006 that was entered into the record that outlines his reasons for being in opposition.
  - he does not want his property included in the UGA
  - his family has development ideas for their land that does not include being in the UGA
  - the County and City have already “taken” some of his property rights in adopting the Airport Overlay Zone that reduced his Planning Commission: September 14, 2006
development density potential.

Keith Reed, 600 Lookabout Lane
- He represents some 14 property owners along Lookabout Lane which is in the northwest corner of the proposed expansion area
- They oppose the expansion request because the existing 3-5 acre lots in that area are incompatible with industrial park land uses
- The area is also elevated above the Cascade Irrigation Canal and would be difficult to serve with utilities
- The proposed area is equal in size to the existing downtown and should be limited in size to the Airport property.
- Inclusion of this area would be of no value to existing property owners because it is too far out from the city.
- He is not as concerned with the earlier expansion request west of Reecer Creek Road because that is a logical expansion area to the northwest whereas this area east of Reecer Creek Road and north of Bowers Road is not likely to develop to urban densities because of its elevation and topographic issues.

There being no additional testimony from the audience, Chair Miller closed the public testimony portion of the public hearing at 10:30 PM and continued the Public Hearing to September 21, 2006 at 5:45 PM in City Council Chambers for the purpose of Planning Commission discussion and recommendation to City Council.

**Continued Public Hearing September 21, 2006**

**Present:** Doug Mitchell, David Miller, George Bottcher, Bob Hood and Jim Newman  
**Members Absent:** Matthew Cziske, Bryan Bachman-Rhodes  
**Also Present:** Mike Smith, Senior Planner

Chair Miller re-opened the continued public hearing for the proposed Year 2000 Comprehensive Plan Amendments at 5:58 PM (Recording No 200060921-174120).

Senior Planner Smith entered 3 additional items into the record:

- **A-6g** September 15, 2006 e-mail from Fritz Glover withdrawing his proposed Comprehensive Plan amendment No. A-6 that would expand the UGA to include the area between Look Road, Reecer Creek Road, Hungry Junction Road and Bowers Road.

- **A-5d** September 21, 2006 letter from Debbie Strand, Economic Development Group of Kittitas County, indicating that the group was now requesting to expand its earlier Comprehensive Plan amendment No. A-5 to include all of the Airport property between Hungry Junction Road and Bowers Road in the UGA.

- **A-3j** September 21, 2006 e-mail from Martin Kaatz providing several attached items for the Planning Commission consideration regarding the various UGA expansion requests.
  - Letter from WA Community, Trade and Economic Development to Kittitas County outlining the considerations that must be undertaken when UGA boundaries are proposed for expansion
  - Kittitas County Comp Plan GPOs pages 24-29 regarding UGAs

Senior Planner Smith advised the Planning Commission that several days earlier the Kittitas County Planning Commission had formally recommended denial of the same Planning Commission: September 14, 2006
Comprehensive Plan amendment requesting an Ellensburg UGA expansion identical to proposed amendment 06-03 due to lack of a detailed land needs analysis showing the need for a UGA expansion.

Chad Bala, applicant for proposed amendment 06-03, testified that the Kittitas County Planning Commission had moved to recommend denial of their concurrent amendment request with the County for an expansion of the Ellensburg UGA.

Fritz Glover, applicant for proposed UGA expansion A-6 explained he was withdrawing his proposed amendment because the Economic Development Group had decided to increase their proposed amendment to include all of the Airport property below Hungry Junction Road.

Pat Deneen, property owner applicant for proposed amendment 06-03, testified that a large area within his proposed expansion area is already serviceable by City services due to the UGA policy that permits extension of utilities 660-feet beyond the UGA boundary when that boundary is a road right-of-way.

There being no further public testimony, Chair Miller closed the public testimony portion of the public hearing at 6:07 PM and the Planning Commission began its deliberations.

**MOTION 9.4** David Miller moved to recommend to City Council the approval of proposed amendments 06-01 and 06-02 as housekeeping amendments. Doug Mitchell seconded. **MOTION PASSES 5-0.**

A lengthy discussion then ensued on proposed amendment 06-03. General consensus of the discussion was that:

- this area west of Reece Creek Road would almost certainly be inside the Ellensburg UGA at some point in the future;
- the land is in large parcels and single ownership which would make it more readily developable than some of the area currently in the UGA that is in smaller parcels;
- larger parcels are easier to lay out for future road systems;
- inclusion in the UGA does not necessarily mean that the property will develop as presented by the applicant because future development just has to meet current code which requires 7,000 square foot minimum lots and it could result in something entirely different;
- the applicant has made a well prepared request and has pointed out some of the very real development issues with some parts of the current UGA
- the City's consultant for the Comprehensive Plan Update has made the conclusion that the current UGA is sufficient to accommodate the projected population growth for the next 20 years and it is difficult to override that conclusion at this time while the Comp Plan Update is still underway;
- there has not been a detailed UGA land needs analysis by the City; and
- the County Planning Commission has recommended denial due to that lack of a detailed land needs analysis.

**MOTION 9.5** George Bottcher moved to table the proposed Comp Plan amendment until next year and to recommend that Council take no action on it at this time. **MOTION Dies for lack of a second.**

**MOTION 9.6** Doug Mitchell moved to recommend that City Council recommend to the Planning Commission. **September 14, 2006**
County Commissioners the denial of proposed Comprehensive Plan Amendment 06-03 pending further analysis of developable land availability and land needs in the Ellensburg UGA. George Bottcher seconded. **MOTION PASSED 3-2** (Hood and Newman voting no).

The Planning Commission then gave consideration to the non-docketed requests to expand the UGA that have been received as part of the Comprehensive Plan Update process.

**A-4 Mathews Road Area**

Consensus of the discussion is that this expansion does not change the land use potential for these properties because the properties that were specifically requested for inclusion would fall under the 660-feet utility extension policy because Pfenning Road right-of-way forms the UGA boundary on their western property line.

**MOTION 9.7** Bob Hood moved to recommend that City Council deny this request to expand the UGA in the Mathews Road area because all services are available now. **Motion dies for lack of a second.**

**MOTION 9.8** Doug Mitchell moves to recommend that City Council deny this request to expand the UGA in the Mathews Road area. Bob Hood seconded. **MOTION PASSES 5-0**

**MOTION 9.9** David Miller moved to include the following rationale for the recommended denial of proposed amendment A-4:

1. City UGA policy exists to provide utilities to the applicants' lots; and
2. The Comprehensive Plan Update conclusion is that there is enough developable land in the current UGA for the next 20-year's population growth.

Doug Mitchell seconded. **Motion passes 4-1.**

**A-5 Bowers Field Expansion**

Consensus of the discussion is that the expanded request makes some sense, but there is a lack of information in the record to support the request, in particular no expression from Kittitas County as to whether they even want their property re-designated as proposed by the Economic Development Group of Kittitas County.

**MOTION 9.10** Bob Hood moved to recommend that City Council deny this request to expand the UGA to include all of the Airport property below Hungry Junction Road. David Miller seconded. **MOTION PASSES 5-0.**

**Old Business:** (none)

**New Business:** (none)

There being no further business, the meeting was adjourned at 8:15 p.m.

Respectfully Submitted,
Mike Smith

Planning Commission: September 14, 2006
From: John Akers  
To: Smith, Mike  
Date: 8/22/2006 9:48 AM  
Subject: UGA Expansions

Mike: Following are my comments to your 9-17 memorandum.

Matthews Road: As we discussed I think current language in our UGA chapter would include this property, and as such it can and should be served by the water and sewer utility.

Airport Property (North of Bowers Road): In general it is possible to serve the area designated with water and sewer service. There may be constraints depending the volume of water needed or waste generated. However, there is distribution and collection service available at the southeast corner of this site, and these utilities can easily be extended onto the property.

Deneen Property: This site is on the end of a pumped sewer line that will need a significant upgrade in order to provide this service. There is adequate plant capacity to serve, but collection and booster transfer will need to be enhanced. Water service is less of a problem. However, we will need to increase source capacity to provide this service. This may be a good time to talk about requiring properties appended to the UGA to develop pumped surface water irrigation systems from their existing water rights as a condition of allowing urban densities. This approach does have some draw back related to cross connection issues, but clear understanding and regulation of cross connection can address these concerns and this has been done in some lower valley communities.

Let me know if you need anything else from me on UGA issues. ja
(b) That foster traditional rural lifestyles, rural-based economies, and opportunities to both live and work in rural areas;
(c) That provide visual landscapes that are traditionally found in rural areas and communities;
(d) That are compatible with the use of the land by wildlife and for fish and wildlife habitat;
(e) That reduce the inappropriate conversion of undeveloped land into sprawling, low-density development;
(f) That generally do not require the extension of urban governmental services; and
(g) That are consistent with the protection of natural surface water flows and ground water and surface water recharge and discharge areas.

(16) "Rural development" refers to development outside the urban growth area and outside agricultural, forest, and mineral resource lands designated pursuant to RCW 36.70A.170. Rural development can consist of a variety of uses and residential densities, including clustered residential development, at levels that are consistent with the preservation of rural character and the requirements of the rural element. Rural development does not refer to agriculture or forestry activities that may be conducted in rural areas.

(17) "Rural governmental services" or "rural services" include those public services and public facilities historically and typically delivered at an intensity usually found in rural areas, and may include domestic water systems, fire and police protection services, transportation and public transit services, and other public utilities associated with rural development and normally not associated with urban areas. Rural services do not include storm or sanitary sewers, except as otherwise authorized by RCW 36.70A.110(4).

(18) "Urban growth" refers to growth that 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. A pattern of more intensive rural development, as provided in RCW 36.70A.070(5)(d), is not urban growth. When allowed to spread over wide areas, urban growth typically requires urban governmental services. "Characterized by urban growth" refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.

(19) "Urban growth areas" means those areas designated by a county pursuant to RCW 36.70A.110.

(20) "Urban governmental services" or "urban services" include those public services and public facilities at an intensity historically and typically provided in cities, specifically including storm and sanitary sewer systems, domestic water systems, street cleaning services, fire and police protection services, public transit services, and other public utilities associated with urban areas and normally not associated with rural areas.

(21) "Wetland" or "wetlands" means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands. [2005 c 423 § 2; 1997 c 429 § 3; 1995 c 382 § 9. Prior: 1994 c 307 § 2; 1994 c 257 § 5; 1990 1st ex.s. c 17 § 3.]

*Revisor's note: RCW 84.33.100 through 84.33.118 were repealed or recodified by 2001 c 249 §§ 15 and 16. RCW 84.33.120 was repealed by 2001 c 249 § 16 and by 2003 c 170 § 7.

Intent—2005 c 423: "The legislature recognizes the need for playing fields and supporting facilities for sports played on grass as well as the need to preserve agricultural land of long-term commercial significance. With thoughtful and deliberate planning, and adherence to the goals and requirements of the growth management act, both needs can be met.

The legislature acknowledges the state's interest in preserving the agricultural industry and family farms, and recognizes that the state's rich and productive lands enable agricultural production. Because of its unique qualities and limited quantities, designated agricultural land of long-term commercial significance is best suited for agricultural and farm uses, not recreational uses.

The legislature acknowledges also that certain local governments have either failed or neglected to properly plan for population growth and the sufficient number of playing fields and supporting facilities needed to accommodate this growth. The legislature recognizes that citizens responded to this lack of planning, fields, and supporting facilities by constructing non-conforming fields and facilities on agricultural lands of long-term commercial significance. It is the intent of the legislature to permit the continued existence and use of these fields and facilities in very limited circumstances if specific criteria are satisfied within a limited time frame. It is also the intent of the legislature to grant this authorization without diminishing the designation and preservation requirements of the growth management act pertaining to Washington's invaluable farmland." [2005 c 423 § 1.]

Effective date—2005 c 423: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 12, 2005]." [2005 c 423 § 7.]

Prospective application—1997 c 429 §§ 1-21: See note following RCW 36.70A.3201.

Severability—1997 c 429: See note following RCW 36.70A.3201.

Finding—Intent—1994 c 307: "The legislature finds that it is in the public interest to identify and provide long-term conservation of those productive natural resource lands that are critical to and can be managed economically and practically for long-term commercial production of food, fiber, and minerals. Successful achievement of the natural resource industries' goal set forth in RCW 36.70A.020 requires the conservation of a land base sufficient in size and quality to maintain and enhance those industries and the development and use of land use techniques that discourage uses incompatible to the management of designated lands. The 1994 amendment to RCW 36.70A.030(9) (section 2(8), chapter 307, Laws of 1994) is intended to clarify the legislative intent regarding the designation of forest lands and is not intended to require every county that has already complied with the interim forest land designation requirement of RCW 36.70A.170 to review its actions until the adoption of its comprehensive plans and development regulations as provided in RCW 36.70A.060(3)." [1994 c 307 § 1.]

Effective date—1994 c 257 § 5: "Section 5 of this act shall take effect July 1, 1994." [1994 c 257 § 25.]

Severability—1994 c 257: See note following RCW 36.70A.270.

36.70A.035 Public participation—Notice provisions.
(1) The public participation requirements of this chapter shall include notice procedures that are reasonably calculated to provide notice to property owners and other affected and
changes to a development regulation immediately following
the granting of the request for expedited review by the depart-
ment. [2004 c 197 § 1; 1991 sp.s. c 32 § 8.]

36.70A.108 Comprehensive plans—Transportation
element—Multimodal transportation improvements and
strategies. (1) The transportation element required by RCW
36.70A.070 may include, in addition to improvements or
strategies to accommodate the impacts of development
authorized under RCW 36.70A.070(6)(b), multimodal trans-
portation improvements or strategies that are made concur-
rent with the development. These transportation improve-
ments or strategies may include, but are not limited to, mea-
sures implementing or evaluating:
(a) Multiple modes of transportation with peak and non-
peak hour capacity performance standards for locally owned
transportation facilities; and
(b) Modal performance standards meeting the peak and
nonpeak hour capacity performance standards.
(2) Nothing in this section or RCW 36.70A.070(6)(b)
shall be construed as prohibiting a county or city planning
under RCW 36.70A.040 from exercising existing authority
to develop multimodal improvements or strategies to satisfy the
concurrency requirements of this chapter.
(3) Nothing in this section is intended to affect or other-
wise modify the authority of jurisdictions planning under
RCW 36.70A.040. [2005 c 328 § 1.]

36.70A.110 Comprehensive plans—Urban growth
areas. (1) Each county that is required or chooses to plan
under RCW 36.70A.040 shall designate an urban growth area
or areas within which urban growth shall be encouraged and
outside of which growth can occur only if it is not urban in
nature. Each city that is located in such a county shall be
included within an urban growth area. An urban growth area
may include more than a single city. An urban growth area
may include territory that is located outside of a city only if
such territory already is characterized by urban growth
whether or not the urban growth area includes a city, or is
adjacent to territory already characterized by urban growth,
or is a designated new fully contained community as defined
by RCW 36.70A.350.
(2) Based upon the growth management population pro-
jection made for the county by the office of financial manage-
ment, the county and each city within the county shall include
areas and densities sufficient to permit the urban growth that
is projected to occur in the county or city for the succeeding
twenty-year period, except for those urban growth areas con-
tained totally within a national historical reserve.
Each urban growth area shall permit urban densities and
shall include greenbelt and open space areas. In the case of
urban growth areas contained totally within a national histori-
cal reserve, the city may restrict densities, intensities, and
forms of urban growth as determined to be necessary and
appropriate to protect the physical, cultural, or historic integ-
rety of the reserve. An urban growth area determination may
include a reasonable land market supply factor and shall per-
mits a range of urban densities and uses. In determining this
market factor, cities and counties may consider local circum-
cstances. Cities and counties have discretion in their compre-
hensive plans to make many choices about accommodating
growth.
Within one year of July 1, 1990, each county that as of
June 1, 1991, was required or chose to plan under RCW
36.70A.040, shall begin consulting with each city located
within its boundaries and each city shall propose the location
of an urban growth area. Within sixty days of the date the
county legislative authority of a county adopts its resolution
of intention or of certification by the office of financial man-
agement, all other counties that are required or choose to plan
under RCW 36.70A.040 shall begin this consultation with
each city located within its boundaries. The county shall
attempt to reach agreement with each city on the location of
an urban growth area within which the city is located. If such
an agreement is not reached with each city located within the
urban growth area, the county shall justify in writing why it
so designated the area an urban growth area. A city may
object formally with the department over the designation of
the urban growth area within which it is located. Where
appropriate, the department shall attempt to resolve the con-
licts, including the use of mediation services.
(3) Urban growth should be located first in areas already
characterized by urban growth that have adequate existing
public facility and service capacities to serve such develop-
ment, second in areas already characterized by urban growth
that will be served adequately by a combination of both exist-
ing public facilities and services and any additional needed
public facilities and services that are provided by either pub-
lic or private sources, and third in the remaining portions of
the urban growth areas. Urban growth may also be located in
designated new fully contained communities as defined by
RCW 36.70A.350.
(4) In general, cities are the units of local government
most appropriate to provide urban governmental services. In
general, it is not appropriate that urban governmental services
be extended to or expanded in rural areas except in those lim-
ited circumstances shown to be necessary to protect basic
public health and safety and the environment and when such
services are financially supportable at rural densities and do
not permit urban development.
(5) On or before October 1, 1993, each county that was
initially required to plan under RCW 36.70A.040(1) shall
adopt development regulations designating interim urban
growth areas under this chapter. Within three years and three
months of the date the county legislative authority of a county
adopts its resolution of intention or of certification by the
office of financial management, all other counties that are
required or choose to plan under RCW 36.70A.040 shall
adopt development regulations designating interim urban
growth areas under this chapter. Adoption of the interim
urban growth areas may only occur after public notice; public
hearing; and compliance with the state environmental policy
act, chapter 43.21C RCW, and RCW 36.70A.110. Such
action may be appealed to the appropriate growth manage-
ment hearings board under RCW 36.70A.280. Final urban
growth areas shall be adopted at the time of comprehensive
plan adoption under this chapter.
(6) Each county shall include designations of urban
growth areas in its comprehensive plan.
(7) An urban growth area designated in accordance with
this section may include within its boundaries urban service
areas or potential annexation areas designated for specific cities or towns within the county. [2004 c 206 § 1; 2003 c 299 § 5; 1997 c 429 § 24; 1995 c 400 § 2; 1994 c 249 § 27; 1993 sps. c 6 § 2; 1991 sps. c 32 § 29; 1990 1st ex.s. c 17 § 11.]

Severability—1997 c 429: See note following RCW 36.70A.3201.

Construction—Application—1995 c 400: See note following RCW 36.70A.070.

Effective date—1995 c 400: See note following RCW 36.70A.040.

Severability—Application—1994 c 249: See notes following RCW 34.05.310.

Effective date—1993 sps. c 6: See note following RCW 36.70A.040.

36.70A.115 Comprehensive plans and development regulations must provide sufficient land capacity for development. Counties and cities that are required or choose to plan under RCW 36.70A.040 shall ensure that, taken collectively, adoption of and amendments to their comprehensive plans and/or development regulations provide sufficient capacity of land suitable for development within their jurisdictions to accommodate their allocated housing and employment growth, as adopted in the applicable countywide planning policies and consistent with the twenty-year population forecast from the office of financial management. [2003 c 333 § 1.]

36.70A.120 Planning activities and capital budget decisions—Implementation in conformity with comprehensive plan. Each county and city that is required or chooses to plan under RCW 36.70A.040 shall perform its activities and make capital budget decisions in conformity with its comprehensive plan. [1993 sps. c 6 § 3; '1990 1st ex.s. c 17 § 12.]

Effective date—1993 sps. c 6: See note following RCW 36.70A.040.

36.70A.130 Comprehensive plans—Review—Amendments. (1)(a) Each comprehensive land use plan and development regulations shall be subject to review and evaluation by the county or city that adopted them. Except as otherwise provided, a county or city shall take legislative action to review and, if needed, revise its comprehensive land use plan and development regulations to ensure the plan and regulations comply with the requirements of this chapter according to the time periods specified in subsection (4) of this section.

(b) Except as otherwise provided, a county or city not planning under RCW 36.70A.040 shall take action to review and, if needed, revise its policies and development regulations regarding critical areas and natural resource lands adopted according to this chapter to ensure these policies and regulations comply with the requirements of this chapter according to the time periods specified in subsection (4) of this section. Legislative action means the adoption of a resolution or ordinance following notice and a public hearing indicating at a minimum, a finding that a review and evaluation has occurred and identifying the revisions made, or that a revision was not needed and the reasons therefor.

(c) The review and evaluation required by this subsection may be combined with the review required by subsection (3) of this section. The review and evaluation required by this subsection shall include, but is not limited to, consideration of critical area ordinances and, if planning under RCW 36.70A.040, an analysis of the population allocated to a city or county from the most recent ten-year population forecast by the office of financial management.

(d) Any amendment of or revision to a comprehensive land use plan shall conform to this chapter. Any amendment of or revision to development regulations shall be consistent with and implement the comprehensive plan.

(2)(a) Each county and city shall establish and broadly disseminate to the public a public participation program consistent with RCW 36.70A.035 and 36.70A.140 that identifies procedures and schedules whereby updates, proposed amendments, or revisions of the comprehensive plan are considered by the governing body of the county or city no more frequently than once every year. "Updates" means to review and revise, if needed, according to subsection (1) of this section, and the time periods specified in subsection (4) of this section or in accordance with the provisions of subsection (8) of this section. Amendments may be considered more frequently than once per year under the following circumstances:

(i) The initial adoption of a subarea plan that does not modify the comprehensive plan policies and designations applicable to the subarea;

(ii) The adoption or amendment of a shoreline master program under the procedures set forth in chapter 90.58 RCW;

(iii) The amendment of the capital facilities element of a comprehensive plan that occurs concurrently with the adoption or amendment of a county or city budget; and

(iv) Until June 30, 2006, the designation of recreational lands under RCW 36.70A.1701. A county amending its comprehensive plan pursuant to this subsection (2)(a)(iv) may not do so more frequently than every eighteen months.

(b) Except as otherwise provided in (a) of this subsection, all proposals shall be considered by the governing body concurrently so the cumulative effect of the various proposals can be ascertained. However, after appropriate public participation a county or city may adopt amendments or revisions to its comprehensive plan that conform with this chapter whenever an emergency exists or to resolve an appeal of a comprehensive plan filed with a growth management hearings board or with the court.

(3)(a) Each county that designates urban growth areas under RCW 36.70A.110 shall review, at least every ten years, its designated urban growth area or areas, and the densities permitted within both the incorporated and unincorporated portions of each urban growth area. In conjunction with this review by the county, each city located within an urban growth area shall review the densities permitted within its boundaries, and the extent to which the urban growth occurring within the county has located within each city and the unincorporated portions of the urban growth areas.

(b) The county comprehensive plan designating urban growth areas, and the densities permitted in the urban growth areas by the comprehensive plans of the county and each city located within the urban growth areas, shall be revised to accommodate the urban growth projected to occur in the county for the succeeding twenty-year period. The review required by this subsection may be combined with the review and evaluation required by RCW 36.70A.215.
Deborah L. Kuhn  
2941 Reecer Creek Road  
Ellensburg, WA 98926  
Tax parcel 18-18-27020-0001

September 27, 2006

City Council  
501 N. Anderson  
Ellensburg, WA 98926

Dear Council Members:

I am sending this to inform you that I do not think the UGA boundary should be expanded West of Reecer Creek Road. You will be creating urban sprawl if you do this. There is a 374 housing development proposed East of Reecer Creek Road right now. In my opinion this is grossly excessive for Ellensburg and the Kittitas Valley. Margo Cordner, who by the way, has bought the 8+ acres North of my property line, has informed me that this whole valley is going to be divided up for housing. This is great for her since she works for John L. Scott and Pat Deneen, but what about the rest of us who have put our heart and soul into our homes and property?

Twenty-two years ago my husband and I bought this piece of land. Now it is priceless to us because of the work we have done. As developers come into this valley and continue to buy up Ag land to build house on top of house, our way of life will be taken away. All I hear by County planners and others is that we must follow the law. The law and growth is now destroying the long time residents of the area. Our taxes keep going up, and the noise of construction equipment, and the dust created by construction is destroying our rural setting. Look at the development down by Dry Creek Road. How many years is that mess going to continue? This is the reason you do not need more land put into the UGA.

Margo and Michael Cordner have bought the 8 acres next to us anticipating that once in the UGA they will be able to sell to a developer and then BOOM 30, 40, 50 houses go in. Our way of life is gone. Mr. Cordner told me that if I didn't like it I should move to Moses Lake. They are in it for the money...my husband and I are in it for the love of our place and taking care of the land. As the land is bought up and dried out around here (very high water table), the wildlife and environment surrounding this area will suffer. The heron have all but disappeared this year and I'm sure the many types of hawks, eagles, and waterfowl will be gone soon. How many miles from town do you have to live to have piece of mind and a quality life in a rural setting? It is here now for us, but will it remain?

Reecer Creek Road was initially redesigned to carry industrial traffic to the airport. This was to be obtained once Bowers Road was extended. No one around this area liked that idea but it was put forth anyway. What has happened to this original plan of industrial growth at the airport and how do all the new housing developments affect the plan? The reason Bowers Road was built was to keep this industrial traffic away from residential areas of Bender Road. What happened to this plan? Do we now spend more state and county tax dollars for another road?

We don't want to live in Moses Lake. We want to live in the Kittitas Valley where its caretakers have planned and thought out its future development. Let's keep this area half way rural. You are going to end up with a domino effect if the city and county continue with this destructive path...save it before it is too late. NO to UGA expansion at this time.

Sincerely,

Deborah L. Kuhn
August 20, 2006

To: Department of Community Development
501 North Anderson Street
Ellensburg, Wa. 98926

Attention: Mike Smith
Senior Planner

REQUEST FOR URBAN GROWTH BOUNDARY EXPANSION BY THE FOLLOWING PARTIES.

New Owners purchased from Ronnie S. & Jackie Axtman
Michael N & Margo C. Cordner
1380 Watson Rd., Ellensburg, Wa. 98926 vacant land
Tax parcel 18-18-27020-0001
Acres 8.49, Cd. 8746; Sec. 27; Twp. 18; Rge. 18; NE 1/4 NW 1/4 Tax No. 16

Michael N. Cordner
Margo C. Cordner

Ronald D. Kuhn
2941 Rececer Creek Rd., Ellensburg, Wa. 98926
Tax parcel 18-18-27055-0001
Acres 4.63, Preston Short Plat 77-12; Ptn. Lot 1; Less .02@ Rd. R/W; Sec. 27, Twp. 18, Rge. 18

Ronald D. Kuhn
Sandra Keaton  
2821 Reecer Creek Rd., Ellensburg, Wa. 98926  
Tax Parcel 18-18-27055-0002  
Acres 4.09, Preston Short Plat 77-12 Lot 2 Sec. 27; Twp. 18; Rge. 18 Less .02@ Rd. R/W  

Sandra Keaton  
9-18-06

Oliver L. Bivens  
2761 Reecer Creek Rd., Ellensburg, Wa. 98926  
Tax Parcel 18-18-27055-0003  
Acres 3.19, Preston Short Plat 77-12; Ptn. Lot 3; Less .03@ Rd. R/W; Sec. 27, Twp. 18, Rge. 18

Oliver L. Bivens

William J. Hosko  
2661 Reecer Creek Rd., Ellensburg, Wa. 98926  
Tax Parcel 18-18-27055-0004  
Acres 2.96, Preston Short Plat 77-12; Ptn. Lot 4; Less .04@ Rd. R/W; Sec. 27, Twp. 18, Rge. 18

William J. Hosko

Robert L. Basterrechea  
323 W. 3rd St., Cle Elum, Wa. 98926  
Tax Parcel 18-18-27020-0008  
Acres 4.23, Cdt. 8750; Sec. 27; Twp. 18; Rge. 18; Ptn NW 1/4 (Parcel J, B22/P174-175); Less .60 Co. Rd. & 3.80 Cm R/W  

Robert L. Basterrechea
Concerned Citizens of Upper Kittitas County  
(CCUKC)  
An Association of Residents and Taxpayers  
P.O. Box 39 - Ronald, WA 98940

STATEMENT ON RIDGE PROPOSALS TO PLANNING COMMISSION

Proposed amendments to the Kittitas County Comprehensive Plan have been compiled and presented by RIDGE, Futurewise, The Kittitas County Conservation Coalition, and others.

The county CDS Dept. provided you with a copy of these proposals. The document is without a doubt the most well thought out proposal the County has been given. It should be adopted in its entirety.

The CDS Dept. did recommend one of the RIDGE proposal regarding UGN's. In the memorandum dated Aug. 9th, 2006 given you by CDS in "Scope of work item 1 - Evaluation of existing UGA's and UGN's", page 3, CDS tells you of their analysis of each UGN.

With the exception of their exclusion of Snoqualamie Pass and Vantage UGN's from the designation of LAMIRDS, The Concerned Citizens of Upper Kittitas County (CCUKC) wholeheartedly supports the CDS evaluation as long as it is added to the Comprehensive Plan in a manner closely following the proposals made by RIDGE and others.

There has been a considerable amount of time and effort expended on this proposal. It deserves your thorough study, which I am sure you have given it.

In studying this proposal I hope that you found that it will save the taxpayers money, protect water resources, the counties economy and its landscape which brings in tourist dollars to Kittitas County.

The Concerned Citizens of Upper Kittitas County urge you to recommend to the BOCC that the proposals made by RIDGE and others be incorporated into the updated, 2007, version of the Kittitas County Comprehensive Plan.

James Boyle, Chairman, CCUKC
Cordy Cooke 117-5th st alley Roslyn 10/4/06

Dear Commissioners,
I am sorry I can not be present tonight. I must work.

I am writing on behalf of the Roslyn City Council. As we have on many previous occasions over the years, we oppose any and all expansions of the Ronald UGN. We do so because we are concerned about the adverse impact on the City of Roslyn caused by the dramatic increase in urban density proposed. We oppose the approach currently employed by the county that avoids any analysis of the cumulative impact on services and also avoids any environmental review.

We also wish to express our support for our friends and neighbors in Ronald who, if asked, we believe would oppose these expansion requests.

For the City of Roslyn,
Cordy Cooke
At the October, 2004 meeting of the BOCC, while holding a hearing on the expansion of the Ronald UGN proposed by Teanaway Ridge, LLC, the Board directed Mr. James Hurson of the county legal staff to report back on the status of UGNs under the code. Mr. Hurson, at the November 10, 2004 meeting, gave the following opinion: (excerpts taken from the transcript of the tapes of that meeting)

"...Now what Urban Growth Nodes are basically UGA's that don't include the city within it. And the UGA's there's a criteria COG worked out that the county follows that deals with a working relationship between the county and the affected city to work collectively as a requirement of the growth management act to establish the boundaries. The UGN's however doesn't have that process in place what we have is the countywide planning policies establish the UGN boundaries and that's it."

"...So my opinion what you have the countywide planning policies have set those boundaries and you can't make a comprehensive plan and then make change to those boundary lines."

"...But right now we are sort of stuck with what countywide planning policies we have and those don't allow for revision of the boundary or expansion of the boundary."

"...and so, COG didn't establish the Urban Growth Area boundaries as we call them here, but they did establish the Urban Growth Node boundaries and noted the map. And we have to be consistent with those in our comp. plan for the county.....we have the countywide planning policies change in order to change the comp. plan on their growth node boundaries." (emphasis mine)

In 2004 the BOCC recognized the inability of the public to participate in UGN matters. Following are excerpts from the statements made by the Commissioners during their deliberation in reaching a decision that denied the expansion of the Ronald UGN at that time:

"...UGN's do not have procedures equal to UGA's. UGN's have no community group to review all concerns regarding impacts on water, sewer, roads, etc."

"...UGA's have a process whereby citizens have the ability to have legislative bodies mediate concerns. UGN's do not have this ability".

"...UGA's have a representative body that they can go to and ask 'If you accept this addition to the UGA how are you going to address these concerns?". (emphasis mine)

On November 29, 2005 the Board of County Commissioners passed Ordinance 2005-40. On page 13 of that ordinance, paragraph 23, (D), the County Commissioners said as follows:
"The Board of Commissioners finds that the policies for dealing with land use issues in Urban Growth Nodes (UGN's) needs review during the 2006 updating of the Comprehensive Plan to determine the actual land use capacity, taking into account the availability of urban services, including but not limited to sanitary sewer, potable water, and emergency services to better resolve growth related issues in UGN's and Urban Growth Areas (UGA's)."

Combine all this and you cannot in good conscience allow the expansion of the Ronald UGN, or any other of the five UGN's.

Now, the Kittitas County Conservation Coalition (of which I am a member), RIDGE, Futurewise and others have added their support to have UGN's, which are bastardized designations, stricken from the Comprehensive Plan and the Countywide Planning Polices and declared Category1 LAMIRDS.

Ronald and the other UGN's ARE category 1 LAMIRDS under the GMA and should be designated as such. It should not take a year to reach such a decision, as Mr. Pearcy suggested to the Planning Commission during their last round of hearings. Establishing a citizens group in the UGN's as suggested by Planning Commission Chairman Black is impractical. The job is yours as representatives of the citizens of Kittitas County and it needs to be done in an expeditious manner.

We ask that you follow the recommendations of the Planning Commission and deny these applications again for the third and hopefully the last time.

Thank You,

James Boyle, Chairman, CCUKC
Land Use change

Proposal
- Change the land use from Commercial Agriculture to Rural

Tax Parcel Number & Acreage
- 18-18-22030-0010
- 54.36 acres

Parcel Map

Land Use Map

Zoning Map

Exhibit # 12
Date: 10-4-06
Submitted by: Chad Balderston
Why amendment is needed?

- Property is being encroached upon by residential development and existing residences.
- The southern boundary joins with suburban zoned property.
- The completed Bowers Road extension is directly to the southeast of an access point for the subject property creating additional intensity of uses in the vicinity.
- The property entrance is approximately 890 feet away from the existing Ellensburg UGA boundary and the new Bowers Road Extension.
- The increase in traffic and residential development in the area is making it more difficult to manage this property as commercial agriculture.

Parcel Map

Washington Administrative Code 365-190-050

1. a) "The availability of public services;"

- Bowers Road extension allows access to the Kitcomm Facility and Bowers Airport.

WAC continued...

1. c) "The availability of public services;"

- City water and sewer lines will be extended in the area due to the new Development proposal on Reecer Creek Road.

WAC continued...

1. d) "Relationship or proximity to urban growth areas (UGA);"

- A 375 unit Planned Unit Development is proposed southeast of subject property within the existing Ellensburg UGA.
- Urban Growth Area is directly adjacent on the east side of Reecer Creek Road.
- Urban Growth Area is being proposed for expansion within this area to the south.
WAC continued...

- With the increase in development occurring in this area correlates with increase in the difficulty of managing agricultural ground in this area.
- Previous owner, realized that with the west interchange area being considered for large commercial activity and with the increase in development within the area it has and will continue to become more difficult to continue farming this area.

WAC continued...

(1) e) "Predominant parcel size;"
- The subject property is 54.36 acres
- Realistically isn't large enough for a commercial agricultural operation.

WAC cont.

(1) f) "Land use settlement patterns and their compatibility with agricultural practices;"

- A 375 unit Planned Unit Development is proposed southeast of subject property within the existing Ellensburg UGA.
- 112 acres of suburban zoned land is directly adjacent to the south (allows for 1 acre min.)
- Further south is numerous short plats and plats such as Currier Creek Estates, etc.

WAC cont.

(1) g) "Intensity of nearby land uses;"

- A 375 unit Planned Unit Development is pretty high intensity that will create difficulty in continuing ag practices on this property.
- The Urban Growth Area in general allows for higher intense uses. These uses in this location, 890 feet away, will have a dramatic impact on being able to access and continue farming of this land.

WAC cont

(1) h) "History of land dev. Permits issued nearby."

- The 2005 ytd for new residences and Manufactured Homes totaled 198 permits for lower county
- As of June 2006, year to date is 78
- Development permits continue to increase every year.

Kittitas County Comprehensive Plan (KCCP)

- GPO 2.118
  "Encourage development projects whose outcome will be the significant conservation of farmlands."
**KCCP continued**

**GPO 2.120**
Set road standards in agricultural areas which discourage non-farm use and do not present problems to agricultural users.

**Summary**
- This property was sold due to encroaching land uses, which has made it difficult to continue the agricultural activities and provide economic stability for the previous landowner.
- As supported by WAC 365-190-050 (a, c, d, e, f, g, & h) and Kittitas County Comprehensive Plan GPO's 2.118 & 2.125 this land can and will no longer function as commercial agricultural ground.
- With the Urban Growth Area 850 feet away, a 375 unit development proposal 850 feet away, The possible extension of services up along Reecer Creek Road.
- The continue development along Bessler Road and the newly built Bowers Road Extension will create additional traffic congestion adding to the difficulty of agricultural operations.

**KCCP continued**

**GPO 2.125**
"If any lands are reclassified out of the Commercial Agricultural designation, then the land revert to the Agricultural designation.

**Summary Cont.**
- With existing Suburban zoning directly adjacent to the south, which allows for 1 acre min. lot sizes (higher density) and the continued development to the south creates a lack of compatibility with agricultural practices.
- With the possibility of large commercial retail occurring at the West Interchange will create an additional lack of compatibility with Agricultural practices and will drastically increase the intensity of uses that will affect this property now and into the future.
- Therefore we request that this 54 acres of land should be removed from Commercial Agriculture.
Land Use change

Proposal
- Change the land use from Commercial Agriculture to Rural

Tax Parcel Number & Acreage
- 18-18-22030-0010
- 54.36 acres

Parcel Map

Land Use Map

Zoning Map
Why amendment is needed?

- Property is being encroached upon by residential development and existing residences.
- The southern boundary joins with suburban zoned property.
- The completed Bowers Road extension is directly to the southeast of an access point for the subject property creating additional intensity of uses in the vicinity.
- The property entrance is approximately 890 feet away from the existing Ellensburg UGA boundary and the new Bowers Road Extension.
- The increase in traffic and residential development in the area is making it more difficult to manage this property as commercial agriculture.

Parcel Map

Washington Administrative Code 365-190-050

(1) a) "The availability of public facilities;"

- Bowers Road extension allows access to the KITCOMM Facility and Bowers Airport.

WAC continued...

(1) c) "The availability of public services;"

- City water and sewer lines will be extended in the area due to the new Development proposal on Reecer Creek Road.

WAC continued...

(1) d) "Relationship or proximity to urban growth areas (UGA);"

- A 375 unit Planned Unit Development is proposed southeast of subject property within the existing Ellensburg UGA.
- Urban Growth Area is directly adjacent on the east side of Reecer Creek Road.
- Urban Growth Area is being proposed for expansion within this area to the south.
WAC continued...

- With the increase in development occurring in this area correlates with increase in the difficulty of managing agricultural ground in this area.
- Previous owner, realized that with the west interchange area being considered for large commercial activity and with the increase in development within the area it has and will continue to become more difficult to continue farming this area.

WAC cont.

(1) f) "Land use settlement patterns and their compatibility with agricultural practices;"

- A 375 unit Planned Unit Development is proposed southeast of subject property within the existing Ellensburg UGA.
- 112 acres of suburban zoned land is directly adjacent to the south (allows for 1 acre min.)
- Further south is numerous short plats and plats such as Currier Creek Estates, etc.

WAC cont

(1) g) "Intensity of nearby land uses;"

- A 375 unit Planned Unit Development is pretty high intensity that will create difficulty in continuing ag practices on this property.
- The Urban Growth Area in general allows for higher intense uses. These uses in this location, 890 feet away, will have a dramatic impact on being able to access and continue farming this land.

WAC cont

(1) h) "History of land dev. Permits issued nearby."

- The 2005 ytd for new residences and Manufactured Homes totaled 198 permits for lower county
- As of June 2006, year to date is 78
- Development permits continue to increase every year.

Kittitas County Comprehensive Plan (KCCP)

- GPO 2.118
  "Encourage development projects whose outcome will be the significant conservation of farmlands."
KCCP continued

GPO 2.120
Set road standards in agricultural areas which discourage non-farm use and do not present problems to agricultural users.

KCCP continued

GPO 2.125
"If any lands are reclassified out of the Commercial Agricultural designation, then the land revert to the Agricultural designation.

Summary

- This property was sold due to encroaching land uses, which has made it difficult to continue the agricultural activities and provide economic stability for the previous landowner.
- As supported by WAC 365-190-059 (a, c, d, e, f, g, & h) and Kittitas County Comprehensive Plan GPO’s 2.118 & 2.125 this land can and will no longer function as commercial agricultural ground.
- With the Urban Growth Area 890 feet away, a 375 unit development proposal 890 feet away. The possible extension of services up along Bessor Creek Road.
- The continue development along Bender Road and the newly built Bowers Road Extension will create additional traffic congestion adding to the difficulty of agricultural operations.

Summary Cont.

- With existing Suburban zoning directly adjacent to the south, which allows for 1 acre min. lot sizes (higher density) and the continued development to the south creates a lack of compatibility with agricultural practices.
- With the possibility of large commercial retail occurring at the West Interchange will create an additional lack of compatibility with agricultural practices and will drastically increase the intensity of uses that will affect this property now and into the future.
- Therefore we request that this 54 acres of land should be removed from Commercial Agriculture.
October 3, 2006

HAND DELIVERED

Mr. David Bowen, Chairman

Mr. Alan Crankovich

Mr. Perry Huston
Kittitas County Board of County Commissioners
205 W 5th Avenue, Suite 108
Ellensburg WA 98926

Re: 2006 Docketed Amendment to the Kittitas County Comprehensive Plan (06-17) Filed by Teanaway Ridge L.L.C. requesting a change in the map designation of their Property from Agricultural Land of Long Term Commercial Significance to Rural

Dear Board of County Commissioners:

I represent Teanaway Ridge L.L.C. Teanaway Ridge L.L.C. has requested you change the Comprehensive Plan Map Designation of its property from Agriculture Land of Long Term Commercial Significance to Rural. Teanaway Ridge L.L.C. submitted to the Planning Commission written and verbal testimony in support of this map amendment.1 Teanaway Ridge L.L.C.’s property consists of approximately 54.36 acres. It is located immediately adjacent to land which is designated as Rural under the Kittitas County Comprehensive Plan and in an area of Kittitas County undergoing significant growth.

Two additional items have come up since the Planning Commission voted to recommend denial of this map amendment and virtually all of the other map amendments pending before the Planning Commission in 2006. The purpose of this letter is to provide you with that information.

On Monday, October 2, 2006 the City of Ellensburg City Council voted to include land which abuts Teanaway Ridge LLC’s property into the City of Ellensburg Urban Growth Area. While

1 Teanaway Ridge L.L.C. specifically incorporates all of the information and testimony it submitted to the Planning Commission and asks that it become a part of the record before the Board of County Commissioners.
you have the ultimate authority to establish UGA boundaries it is significant that the City is requesting the adjacent land be included in its UGA. It also appears, based upon the indication from the City of Ellensburg, that this property, if included within the City of Ellensburg Urban Growth Area, will be annexed into the City of Ellensburg. As a result, Teanaway Ridge LLC's property which is currently designated as Agricultural Land of Long Term Commercial Significance will abut land that is within the City of Ellensburg Urban Growth Area and could shortly be within the Ellensburg City limits.

The second item is the Washington State Supreme Court's decision in the case of Lewis County vs. Western Washington Growth Management Hearings Board. A copy of the case (Supreme Court Docket No. 76553-7, August 10, 2006) is attached hereto as Exhibit "A". While the case was decided just before the Planning Commission's public hearing it was not discussed by the Planning Commission. The case is significant because it reiterates and clarifies what should be considered when defining Agricultural Lands of Long Term Commercial Significance.

It was not appropriate to just consider whether the property had been used for agricultural purposes when determining whether it should remain designated as Agricultural Lands of Long Term Commercial Significance. WAC 365-190-050 (Exhibit "B") establishes a requirement that the governing body, when determining which lands should be classified as Agricultural Lands of Long Term Commercial Significance or which lands should remain classified as Agricultural Lands of Long Term Commercial Significance should look at more than whether the property has been utilized for agricultural production, the soil types of the property and water available to the property. The WAC identifies other criteria that should be considered in deciding whether land should be classified as Agricultural Land of Long Term Commercial Significance. The Supreme Court specifically cited to WAC 365-190-050 and concluded Counties should also consider the combined effects of proximity to population areas and the possibility of more intensive land uses as indicated by the criteria set forth in WAC 365-190-050 (Lewis County, Exhibit "A", page 7).

The following quote from the Lewis County case is the current status of the law established by the Supreme Court.

"In sum, based upon the plain language of the GMA and its interpretation in Benaroya I, we hold that agricultural land is land: (a) not already characterized by urban growth (b) that is primarily devoted to the commercial production of agricultural products enumerated in RCW 36.70A.030(2), including land in areas used or capable of being used for production based on land characteristics, and (c) that has long term commercial significance for agricultural production, as indicated by soil, growing capacity, productivity, and whether it is near population areas or vulnerable to more intense uses. We further hold that counties may consider the development-related factors enumerated in WAC 365-190-050 (1) in determining which lands have long term commercial significance."

The point is, and where the Planning Commission failed, is that you cannot classify land based upon the notion that every acre of farm land must be preserved and not developed. Instead you, as the ultimate decision maker, should be looking not only at the land, but whether that land is commercially viable agricultural land and what types of land uses are occurring around the land.
The Supreme Court concluded its decision with the following statement:

"If the State wants to conserve all land that is capable of being farmed without regard to its commercial viability, it may buy the land." (emphasis added)

That simple statement by the Washington State Supreme Court is very appropriate to what is occurring in this county right now. The notion that every acre of land that is capable of being used as a "farm" should be protected from development is nothing more than a taking of private property for public use without just compensation. You, as the ultimate decision maker, should not fall into this trap. There is nothing wrong with protecting farm land however you need to make sure it is truly farm land that has economic significance. With respect to Teanaway Ridge L.L.C.'s property you cannot conclude, based upon the factual evidence submitted to you, that this land has long term commercial significance to agriculture in Kittitas County.

Very truly yours,

Jeff St. Onfower
Enc.
cc: Client
2006 Slip - 76553-7; Lewis County v. Western WA Growth Management Hearings Board;

Supreme Court of the State of Washington

Opinion Information Sheet

Docket Number: 76553-7
Title of Case: LEWIS COUNTY VS WESTERN WA GROWTH MGMT HEARINGS BOARD
File Date: August 10, 2006
Oral Argument Date: 11/10/2005

SOURCE OF APPEAL

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Appeal from Superior Court of Lewis County
Docket No: 04-2-00477-1
Judgment or order under review
Date filed: 02/23/2004
Judge signing: Hon. H John Hall

JUSTICES

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Authorised by Gerry L Alexander
Concurring: Barbara A. Madsen
Bobbe J Bridge
Charles W. Johnson
Susan Owens
Mary Fairhurst
Dissenting: James Johnson
Richard B. Sanders
Tom Chambers

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----------------
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Amicus Curiae on behalf of Futurewise
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Law offices of Gulliford, McGaughey & Du
2135 112th Ave NE Ste 100
Bellevue, WA 98004-2923

Tim Trohimovich
Futurewise
505 E Denny Way Apt 607
Seattle, WA 98122-6925

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

No. 76553-7

LEWIS COUNTY, Appellant, v. WESTERN WASHINGTON GROWTH MANAGEMENT
HEARINGS BOARD, EUGENE BUTLER, EDWARD G. SMETERS, DOUGLAS H. HAYDEN,
ANNETTE H. YANISCH, BRENDA BOARDMAN, DOROTHY L. SMITH, DEBRA ERTEL
BURRIS, MICHAEL T. VINATIERI, DEANNA M. ZIESKE, VINCE PANESKO, JOHN T. MUDGE,
EVALINE COMMUNITY ASSOCIATION, SUSAN ROTH, RICHARD ROTH, KAREN KNUTSEN,
and VALERIE GORE, Respondents.

Filed August 10, 2006

En Banc

ALEXANDER, C.J.—After failing four times to satisfy the Western Washington Growth
Management Hearings Board (Board) that it properly designated agricultural lands for conservation
under the Growth Management Act (GMA), chapter 36.70A RCW, Lewis County now asks us to
reverse the latest Board orders rebuffing its efforts. We conclude that the Board incorrectly defined
agricultural land in reviewing Lewis County's 2003 ordinances.

Accordingly, we reverse the Board's conclusion that the county violated the GMA by focusing on
the farm industry's projected needs, rather than on soil and land characteristics, in designating agricultural lands for conservation. We also remand the case to the Board to determine whether the county's designations of agricultural land comply with the GMA, using the correct definition of agricultural land.1 We conclude, however, that the Board did not err by invalidating the ordinances that: (a) allowed non-farm uses within designated agricultural lands, and (b) excluded "farm centers" and farm homes from those lands. Therefore, we partially affirm the Board's orders.

I

Lewis County has long struggled to meet GMA requirements to designate and conserve agricultural lands. In June 2000, March 2001, and July 2002, the Board found the county's efforts noncompliant.

In response to the Board's September 8, 2003, deadline to achieve GMA compliance, the county staff prepared a report explaining how it identified agricultural lands to be conserved. The 2003 staff report said that of the 1,117 farms existing in Lewis County as of the 1997 census, only 176 farms had gross sales of $25,000 or more, and only 161 of them were larger than 180 acres. The report also said that of about 150,000 acres eligible for agricultural designation based on soil type, about 50,000 had no recent agricultural activity. The report described a decline in dairies and field crops, an absence of "significant clusters" of organic farms, and a poultry industry constrained by a lack of water rights. Clerk's Papers (CP) at 242. The report also said no land conservation was needed for the hay and Christmas tree industries because they do not depend on soil, and "{g}rass hay in particular is a marginal operation, in that in good years the return is often barely enough to pay taxes on the property." Id. at 254.

Finally, the staff report said most Lewis County farms are not economically self-sufficient and therefore need "non-farm income" for survival. Id. To address that need, the report recommended allowing each farm to have a "farm center" of up to five acres where rural commercial and industrial uses would be allowed. Id. at 255.

The Lewis County Planning Commission held public hearings and approved the staff report almost entirely. It recommended that the Lewis County Commission designate 54,500 acres of agricultural land, "appropriate in location and amount to reasonably conserve the land-based needs of the commercial agriculture industry for the foreseeable future."2 Id. at 283.

On September 8, 2003, the Lewis County Commission adopted by ordinance the planning commission findings and most of its recommendations, along with maps designating an agricultural zone of about 54,400 acres. And while prohibiting certain non-farm land uses, the commission allowed others-- including residential subdivisions, home-based businesses and telecommunication facilities—to be located in agricultural lands as long as they met certain conditions.3 The ordinances designated 13,767 of "Class A" farmlands, characterized by prime farm soils, over 40,000 acres of "Class B" farmlands, and "{f}armlands of {l}ocal {i}mportance." Id. at 670. The commission removed some lands from designation because they: (1) had "already been divided," (2) "lost irrigation rights," or (3) were "isolated and in areas where land development and potential changes create the potential for conflict and ... significant change." Id. at 283. The latter included lands near Interstate 5 where the county wants to attract "major industry." Id.

The county's designation of 54,400 acres of agricultural lands, as compared with 66,000 acres receiving special agricultural tax status and 283,000 acres of land with prime farm soils in Lewis County, was controversial. In January 2004, the Board held a hearing to review citizen petitions challenging the county's 2003 actions and to determine GMA compliance.4
The citizen petitioners, using soil and aerial maps, claimed to identify 140,645 acres that were currently or recently used for agriculture and that should have been conserved. In February 2004, the Board issued a 49-page order concluding that Lewis County still failed to comply with the GMA. The Board reasoned as follows:

The GMA defines the requirements for designating natural resource lands based on the characteristics of the lands. Instead of basing its designation decisions on the characteristics of agricultural land, Lewis County focused its decision-making on its assessment of the needs of the local agricultural industry .... Historically, in Lewis County as well as in other counties, the agricultural industry has changed as the market for agricultural products changed. Agricultural economists are not able to predict which products will be in demand next year, let alone for the foreseeable future. The legislature, therefore, did not tie the designation of agricultural lands to economic conditions which shift unpredictably but to the characteristics of the land. The moving concern underlying the GMA's requirement for designation and conservation of agricultural lands is to preserve lands capable of being used for agriculture because once gone, the capacity of those lands to produce food is likely gone forever.

CP at 634. The Board invalidated the ordinances and maps that: (a) designated the agricultural lands to be conserved, (b) excluded "farm centers" and farm homes from designated agricultural lands, (c) allowed nonagricultural uses on the designated lands, and (d) required "sufficient irrigation capability" for designation as Class A farmland.5 CP at 674, 675. In a May 2004 order on reconsideration, the Board said that "until the County utilizes a compliant approach . . . potential agricultural resource lands in the rural zones must be preserved from incompatible development so that they will be available for assessment under a compliant approach." 6 Id. at 684.

Lewis County appealed both 2004 orders to the Lewis County Superior Court. On December 23, 2004, the superior court affirmed the Board's orders, agreeing with the Board that "the . . . needs of the industry' argument is clearly erroneous" and that "the definition of long-term significance refers to the growing capacity and productivity of the soil." Id. at 10.

We granted review.

II

The Growth Management Hearings Board is charged with adjudicating GMA compliance and invalidating noncompliant plans and development regulations. RCW 36.70A.280, .302. The Board "shall find compliance" unless it determines that a county action "is clearly erroneous in view of the entire record before the board and in light of the goals and requirements" of the GMA. RCW 36.70A.320(3). To find an action "clearly erroneous," the Board must have a "firm and definite conviction that a mistake has been committed." Dep't of Ecology v. Pub. Util. Dist. No. 1 of Jefferson County, 121 Wn.2d 179, 201, 849 P.2d 646 (1993). On appeal, we review the Board's decision, not the superior court decision affirming it. King County v. Cent. Puget Sound Growth Mgmt. Hearings Bd., 142 Wn.2d 543, 553, 14 P.3d 133 (2000) (hereinafter referred to as Soccer Fields). "We apply the standards of RCW 34.05 directly to the record before the agency, sitting in the same position as the superior court." Id. (quoting City of Redmond v. Central Puget Sound Growth Mgmt. Hearings Bd., 136 Wn.2d 38, 45, 959 P.2d 1091 (1998)).

The legislature intends for the Board "to grant deference to counties and cities in how they plan for growth, consistent with the requirements and goals of" the GMA. RCW 36.70A.3201. But while the
Board must defer to Lewis County's choices that are consistent with the GMA, the Board itself is entitled to deference in determining what the GMA requires. This court gives "substantial weight" to the Board's interpretation of the GMA.

Soccer Fields, 142 Wn.2d at 553.7

Under the Administrative Procedure Act (APA), chapter 34.05 RCW, a court shall grant relief from an agency's adjudicative order if it fails to meet any of nine standards delineated in RCW 34.05.570(3). Here, Lewis County asserts that the Board erroneously applied the law, warranting relief under RCW 34.05.570(3)(d), and engaged in an unlawful decision-making process.

RCW 34.05.570(3)(c). The burden of demonstrating that the Board erroneously applied the law or failed to follow prescribed procedure is on the party asserting error. Soccer Fields, 142 Wn.2d at 553. Our review of issues of law under RCW 34.05.570(3)(d) is de novo. Thurston County v. Cooper Point Ass'n, 148 Wn.2d 1, 8, 57 P.3d 1156 (2002). "On mixed questions of law and fact, we determine the law independently, then apply it to the facts as found by the agency." Id. (citing Hamel v. Employment Sec. Dep't, 93 Wn. App. 140, 145, 966 P.2d 1282 (1998), review denied, 137 Wn.2d 1036 (1999)).

III

Under the GMA, Lewis County must designate "(a)gricultural lands that are not already characterized by urban growth and that have long-term significance for the commercial production of food or other agricultural products." RCW 36.70A.170(1)(a). In addition, the county must adopt development regulations "to assure the conservation of" those agricultural lands designated under RCW 36.70A.170. RCW 36.70A.060(1).8 The parties in this case offer contrary definitions of the lands subject to these requirements. As a threshold matter, then, we must identify the correct definition of "agricultural lands" under the GMA.

Lewis County designated agricultural lands based on its own definition: "those lands necessary to support the current and future needs of the agricultural industry in Lewis County, based upon the nature and future of the industry as an economic activity and not on the mere presence of good soils." CP at 418. The Board called the county's definition clearly erroneous, saying, "We note that throughout the GMA and the court decisions construing it the focus is on the nature of the land, not on the nature of the agricultural industry that is using the land at any given time." Id. at 640. The Board also said "{(t)he GMA calls for designation of agricultural lands based on characteristics of the land} that affect long-term production capability. Id. But to be guided strictly by the physical nature of the land would stifle economic development in counties like Lewis, which have a significant amount of potentially good farmland, much of which is unproductive. For reasons set forth below, we conclude that the Board's and county's definitions of agricultural land are both incorrect.

The GMA defines agricultural land as "(a) land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees ... or livestock, and that has long-term commercial significance for agricultural production." RCW 36.70A.030(2).

Thus, the legislature established that agricultural lands are those which (1) are "primarily devoted to" commercial agricultural production, and (2) have "long-term commercial significance" for such production. RCW 36.70A.030(2). We now turn to what these terms mean.

This court previously addressed the meaning of the term "primarily devoted to" in City of Redmond
v. Central Puget Sound Growth Management Hearings Board, 136 Wn.2d 38, 959 P.2d 1091 (1998) (hereinafter referred to as Benaroya I), a case in which landowners challenged designation of their land as agricultural. We said there that land is primarily "devoted to" commercial agricultural production "if it is in an area where the land is actually used or capable of being used for agricultural production," and that a landowner's intended use of land is not conclusive. Id. at 53.

In the present case, the Board relied partly on the aforementioned language in concluding that Lewis County improperly excluded from designation those lands that are "capable of being used" for farm production. CP at 637.

But Benaroya I dealt only with whether land is "primarily devoted to" farming under RCW 36.70A.030. Benaroya I, 136 Wn.2d at 49. The other question in designating agricultural land, neglected by the Board in this case, is whether land also has "long-term commercial significance" for farm production.

The GMA says that long-term commercial significance "includes the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of the land."

RCW 36.70A.030(10) (emphasis added). Thus, counties must do more than simply catalogue lands that are physically suited to farming. They must consider development prospects (the "possibility of more intense uses") in determining if land has the enduring commercial quality needed to fit the agricultural land definition.

While this court has not previously interpreted RCW 36.70A.030(10), we approve of the approach used by the Court of Appeals in Manke Lumber Co. v. Diehl, 91 Wn. App. 793, 959 P.2d 1173 (1998), review denied, 137 Wn.2d 1018 (1999). In Manke, Mason County challenged a Board decision to invalidate its designation of forest lands, subject to the same GMA conservation requirements as agricultural lands. In holding that the Board erred, the court relied largely on WAC 365-190-050,10 a Washington Department of Community, Trade and Economic Development regulation designed to guide counties in determining which agricultural and forest lands have "long-term commercial significance." That regulation says that counties shall also consider the combined effects of proximity to population areas and the possibility of more intense uses of the land as indicated by:

(a) The availability of public facilities;

(b) Tax status;

(c) The availability of public services;

(d) Relationship or proximity to urban growth areas;

(e) Predominant parcel size;

(f) Land use settlement patterns and their compatibility with agricultural practices;

(g) Intensity of nearby land uses;

(h) History of land development permits issued nearby;
(i) Land values under alternative uses; and

(j) Proximity of markets.

WAC 365-190-050(1).11 The court in Manke determined that the Board misapplied the GMA, and that the county could limit forest land designations to parcels of at least 5,000 acres that have a forest tax classification because the guidelines allow consideration of "predominant parcel size" and "tax status" in determining long-term significance. See Manke, 91 Wn. App. at 807-08.

In sum, based on the plain language of the GMA and its interpretation in Benaroya I, we hold that agricultural land is land: (a) not already characterized by urban growth, (b) that is primarily devoted to the commercial production of agricultural products enumerated in RCW 36.70A.030(2), including land in areas used or capable of being used for production based on land characteristics, and (c) that has long-term commercial significance for agricultural production, as indicated by soil, growing capacity, productivity, and whether it is near population areas or vulnerable to more intense uses. We further hold that counties may consider the development-related factors enumerated in WAC 365-190-050(1) in determining which lands have long-term commercial significance. We, therefore, remand this case for the Board to apply the correct definition of agricultural land in determining whether Lewis County's 2003 ordinances complied with RCW 36.70A.170(1).

IV

The respondent citizens in this case argue that "[n]owhere in the GMA or in the implementing WACs is there authority to limit agricultural resource lands designations using an industry needs assessment." Br. of Resp'ts at 10. While it is true that no statute specifically authorizes counties to weigh industry needs above all other considerations in designating and conserving agricultural land, this does not mean the GMA prohibits such an approach. As noted above, the GMA's stated intent is to recognize the "broad . . . discretion" of counties to make choices within its confines.

RCW 36.70A.3201. Because the GMA does not dictate how much weight to assign each factor in determining which farmlands have long-term commercial significance, and because RCW 36.70A.030 (10) includes the possibility of more intense uses among factors to consider, it was not "clearly erroneous" for Lewis County to weigh the industry's anticipated land needs above all else. If the farm industry cannot use land for agricultural production due to economic, irrigation or other constraints, the possibility of more intense uses of the land is heightened. RCW 36.70A.030(10) permits such considerations in designating agricultural lands. Indeed, Manke involved some of the same considerations cited in the Lewis County staff report, undersized parcels and possible conflicts with nearby development.

Therefore, the Board erred in concluding that Lewis County violated the GMA by designating agricultural lands based on the local farm industry's anticipated needs.

However, we do not decide whether Lewis County, in focusing on the needs of the local agriculture industry, went beyond the considerations permitted by WAC 365-190-050 and RCW 36.70A.030 in designating agricultural lands.

Unfortunately, Lewis County's briefs do not explain the extent to which the county applied the specified factors. And while Lewis County Ordinance 1179C does spell out in detail how the county considered WAC 365-190-050 factors in mapping agricultural lands, the record does not indicate whether the county used permissible criteria in other decisions not explicitly tied to the WAC factors.
For example, in not designating Christmas tree farms as agricultural land because they do not depend on a particular soil type, the county could have been considering the soil composition factor listed in RCW 36.70A.030(10). But in light of the Christmas tree industry's relatively robust $19.8 million in annual sales, it is not apparent why Lewis County would "consider" soil in this way, excluding productive tree farms from designated agricultural lands simply because they don't need the types of prime soil that other farm sectors need. Thus, upon remand, when the Board reviews whether Lewis County properly designated agricultural lands, the inquiry should include whether the county's decisions were "clearly erroneous" in light of the considerations outlined in RCW 36.70A.030 or WAC 365-190-050.

V

While most of the county's designation decisions at least possibly could have been based on permissible criteria,14 we note one exception. In excluding "farm centers" and farm homes from designated agricultural lands,15 the county sought "to serve the farmer's non-farm economic needs." Opening Br. at 30. Serving the farmer's "non-farm" economic needs is not a logical or permissible consideration in designating agricultural lands under the GMA. That is because it is a goal in and of itself, not a characteristic of farmland to be evaluated in determining whether such land has long-term commercial significance. A farmer's presumed need for "non-farm" income does not necessarily relate to soil, productivity or growing capacity under RCW 36.70A.030(10), nor to proximity to population areas or the possibility of more intense uses of land. It has to do only with the farmer's bottom line. And while we share Lewis County's concern for the struggles farmers often face, we note that the GMA is not intended to trap anyone in economic failure, as evidenced by the mandate to conserve only those farmlands with long-term commercial significance. The problem with the county's approach is that any farmer could convert any five acres of farmland to more profitable uses, even if such conversion would remove perfectly viable fields from production. Thus it was clearly erroneous for Lewis County to exclude from designated agricultural lands up to five acres on every farm, without regard to soil, productivity or other specified factors in each farm area. 16 Accordingly, we affirm the Board's invalidation of the blanket exclusion of five-acre farm centers and farm homes from designated agricultural lands.

VI

Having discussed whether Lewis County properly designated lands under RCW 36.70A.170, we now turn to the RCW 36.70A.060 duty to conserve designated lands. The GMA says in relevant part:

"Each county . . . shall adopt development regulations . . . to assure the conservation of agricultural . . . lands designated under RCW 36.70A.170." RCW 36.70A.060(1).

A county . . . may use a variety of innovative zoning techniques in areas designated as agricultural lands . . . The . . . techniques should be designed to conserve agricultural lands and encourage the agricultural economy. A county . . . should encourage nonagricultural uses to be limited to lands with poor soils or otherwise not suitable for agricultural purposes.

RCW 36.70A.177(1) (emphasis added).

{T}echniques a county . . . may consider include . . .

(a) Agricultural zoning, which limits the density of development and restricts or prohibits nonfarm uses of agricultural land . . .

(b) Cluster zoning . . .
(c) Large lot zoning . . .

(d) Quarter lot zoning . . .

(e) Sliding scale zoning . . .

RCW 36.70A.177(2). Thus, counties may choose how best to conserve designated lands as long as their methods are "designed to conserve agricultural lands and encourage the agricultural economy." RCW 36.70A.177(1).

Lewis County contends that the Board ignored RCW 36.70A.177 and mandated that all agricultural land be zoned for agriculture only, thereby imposing a "per se prohibition" on all nonagricultural uses there. Opening Br. at 33. But as the respondent citizens correctly noted, the Board orders contain no such prohibition. Br. of Resp'ts at 24. Rather, the Board concluded that the non-farm uses allowed within farmlands, including mining, residential subdivisions, telecommunications towers and public facilities: (a) "are not limited in ways that would ensure that they do not impact resource lands and activities negatively," and (b) substantially interfere with achieving the GMA goal of maintaining and enhancing the agricultural industry. CP at 676. Furthermore, the Board found that the zoning failed to conserve agricultural land as required by RCW 36.70A.060.

For example, the Board found that: (a) "the failure to regulate farm housing to conserve agricultural prime soils and to prevent residential densities inconsistent with agriculture fails to conserve agricultural lands," (b) "clustered residential subdivisions as currently allowed in the 13,767 acres of Class A Farmlands are not designed to ensure conservation of agricultural lands and encourage the agricultural economy," and (c) "the requirement that these uses not detract from the overall productivity of the resource activity is not sufficient protection." CP at 672. That is different from requiring a particular form of zoning or flatly prohibiting all non-farm uses. In sum, Lewis County has not been stripped of the ability to use innovative zoning techniques pursuant to RCW 36.70A.177, as it contends. Rather, in invalidating the Lewis County ordinance allowing non-farm uses of agricultural lands, the Board was simply making sure that the county's zoning methods are actually "designed to conserve agricultural lands and encourage the agricultural economy" as required by RCW 36.70A.177(1).

The county also argued that the Board failed to heed this court's decision in King County v. Central Puget Sound Growth Management Hearings Board, 142 Wn.2d 543, 14 P.3d 133 (2000), which involved whether soccer fields could be located on agricultural lands. Opening Br. at 31-32. The county contends that the Soccer Fields test is whether a nonagricultural use "unreasonably" prevents agricultural land "from being used for its intended purpose," or "defeat[s]" the county's ability to maintain and enhance the farm industry. Opening Br. at 32. That is not the test. This court said, "In order to constitute an innovative zoning technique consistent with the overall meaning of the Act, a development regulation must satisfy the Act's mandate to conserve agricultural lands for the maintenance and enhancement of the agricultural industry." Soccer Fields, 142 Wn.2d at 560. "After properly designating agricultural lands . . . the County may not then undermine the Act's agricultural conservation mandate by adopting 'innovative' amendments that allow the conversion of entire parcels of prime agricultural soils to an unrelated use." Id. at 561. The court concluded that the soccer field zoning was noncompliant because it "would result in a long-term removal" of agricultural land from agricultural production, possibly never returning to agricultural use. Id. at 562.

Thus, a zoning technique that allows non-farm uses on designated agricultural lands satisfies the Soccer Fields test if it does not undermine the GMA mandate to conserve agricultural lands for the maintenance and enhancement of the farm industry.
Applying the Soccer Fields test to this case, the question is whether Lewis County’s ordinance allowing residential subdivisions and other non-farm uses within designated agricultural lands undermined the GMA conservation requirement. This is a question of law, and we give "substantial weight" to the Board’s interpretation of the GMA. Id. at 553. In concluding that Lewis County’s permitting of non-farm uses could “impact resource lands and activities negatively,” and therefore substantially interferes with maintaining and enhancing the farm industry, the Board essentially interpreted the GMA to prohibit negative impacts on agricultural lands and activities. CP at 676. That is consistent with the RCW 36.70A.060 directive to conserve designated agricultural lands, the RCW 36.70A.020(8) goal of maintaining and enhancing the agricultural industry, and the Soccer Fields holding that innovative zoning may not undermine conservation.

Therefore, the Board did not err in holding that the non-farm uses of agricultural lands failed to comply with the GMA requirement to conserve designated agricultural lands.

VII

In conclusion, as explained above, we reverse the Board’s decision that Lewis County may not designate agricultural lands based on the local farm industry’s projected land needs. If the State wants to conserve all land that is capable of being farmed without regard to its commercial viability, it may buy the land.

We also remand the case for the Board to apply the correct definition of agricultural land, taking into account whether the county used permissible criteria. However, we affirm the Board’s invalidation of the exclusion of farm homes and farm centers from designated agricultural lands because “serving the farmer’s non-farm economic needs” is not a permissible consideration. We also affirm the Board’s invalidation of non-farm uses within agricultural lands.18

AUTHOR:

Chief Justice Gerry L.
Alexander

WE CONCUR:

Justice Charles W.
Johnson Justice Susan Owens
Justice Barbara A.
Madsen Justice Mary E. Fairhurst
Justice Bobbe J. Bridge

J.M. JOHNSON, J. (dissenting/concurring)--The legislature recognized the authority and wide discretion of county governments to adopt county comprehensive plans according to local growth patterns, resources, and needs. RCW 36.70A.010-902; Manke Lumber Co. v. Diehl, 91 Wn. App. 793, 796, 959 P.2d 1173 (1998). This is the necessary starting point when reviewing any Growth Management Act (GMA) case involving review of local legislative planning decisions by one of the Growth Management Hearings Boards (GMA Boards).1

The majority adequately recognizes this deference owed to county legislative bodies and the resulting standards of review. However, the majority disregards this principle when it upholds the GMA
Board's decision to overturn Lewis County's (County) determination that farm centers and farm homes and certain other nonresource related uses are appropriate and allowable on agricultural and forest lands in the county. Therefore, I concur in part and dissent in part.

I. The Growth Management Act and the Role of the GMA Boards

Prior to reviewing these GMA Board decisions, it is necessary to provide a brief overview of the GMA, the creation of the three GMA Boards, the requirements for GMA Board membership, and the GMA Boards' limited role to ensure compliance with GMA, while giving local legislative bodies discretion to address local needs.

In 1991 the Washington State legislature passed the GMA to help preserve Washington's environmental quality and to balance the inevitable growth with the quality of life concerns for the benefit of Washington residents. See Laws of 1990, 1st Ex. Sess., ch. 17, codified at ch. 36.70A RCW. The GMA recognizes 13 planning goals, which are not ranked in priority, are not meant to be exclusive, and are permitted to be given varying degrees of emphasis by local legislative bodies. RCW 36.70A.020; WAC 365-195-070(1).

The GMA was to be a "bottom-up" approach, allowing local cities and counties the authority to make decisions based on their local needs in order to harmonize and balance the 13 statewide planning goals.2

GMA was not intended to be a top-down approach with state agencies (or GMA Boards) dictating requirements to local entities. Thus, in accordance with the legislative language of the act, we have held that the GMA does not prescribe a single approach to growth management. RCW 36.70A.3201; Viking Props. v. Holm, 155 Wn.2d 112, 125-26, 118 P.3d 322 (2005) ("the ultimate burden and responsibility for planning, harmonizing the planning goals of the GMA, and implementing a county's or city's future rests with that community." (alteration in original) (quoting RCW 36.70A.3201)).

Thus, the GMA is implemented exclusively by city and county governments and is to be construed with the flexibility to allow local governments to accommodate local needs. Viking Props., 155 Wn.2d at 125-26.

Rather than have GMA disputes proceed directly to superior court, the legislature created three regional GMA Boards to resolve land disputes under the GMA--Western Washington Growth Management Board, Eastern Washington Growth Management Board, and Central Puget Sound Growth Management Board. RCW 36.70A.250. In this case we are dealing with the Western Washington Growth Management Board (Board).

The role of GMA Boards is quasi-judicial and each may interpret for counties and cities the requirements of the GMA to ensure compliance with the GMA's 13 goals. GMA Boards are the first level to resolve conflicting interpretations in order to resolve land disputes quickly and efficiently.

GMA Boards are empowered to "hear and determine" allegations that a city, county, or state agency has not complied with the goals and requirements of the GMA and related provisions of the Shoreline Management Act of 19713 and the State Environmental Policy Act.4 RCW 36.70A.280.

GMA Boards review petitions for review regarding (1) designation of resource lands and critical areas, (2) regulations to conserve and protect critical areas, (3) designate urban growth boundaries, and (4) comprehensive plans, development regulations, and shoreline master plans. Each board may also
review the 20-year growth management plans, determine issues of standing, and has the task of making adjustments to growth management planning projects while considering state-wide implications. RCW 36.70A.280.

However, the role of GMA Boards is very limited. The legislature requires each GMA Board "to grant deference to counties and cities in how they plan for growth, consistent with the requirements and goals of" the GMA. RCW 36.70A.3201. While we give weight to each GMA Board's decisions, deference is required to county planning actions if consistent with the goals and requirements of the GMA. State v. Bradshaw, 152 Wn.2d 528, 535, 98 P.3d 1190 (2004), cert. denied, 544 U.S. 922, 125 S. Ct. 1662, 161 L. Ed. 2d 480 (2005). Moreover, if a GMA Board fails to give deference to a county planning decision that complies with the GMA, the GMA Board's ruling is not entitled to deference from this court. Quadrant Corp. v. State Growth Mgmt. Hearings Bd., 154 Wn.2d 224, 238, 110 P.3d 1132 (2005).

Some GMA Boards have recognized their very limited authority: that they are not allowed to reach constitutional or equitable issues nor are they empowered to resolve disputes related to impact fees (RCW 82.02.020). See e.g., Alberg v. King County, No. 95-3-0041, Cent. Puget Sound Growth Mgmt. Hr's Bd. Final Dec. & Order 1109 (Wash. Sept. 13, 1995) (GMA Board can't reach constitutional or equitable issues); Master Builders Assoc. of Pierce County v. City of Bonney Lake, No 05-3-0045, Cent. Puget Sound Growth Mgmt. Hr's Bd. Final Order (Wash. Jan. 12, 2006) (GMA Board does not have jurisdiction to decide issues related to impact fees imposed under chapter 82.02 RCW.).

While "substantial weight" is afforded to a GMA Board's interpretation of the GMA, they are not judicial or legislative officers. The board members are not elected, but are appointed by the sitting governor for six-year terms (without legislative confirmation). In order to be eligible to participate on a GMA Board, the GMA simply requires of members (1) that at least one attorney and one former local elected official serve on each board, (2) that each board member reside within the region for which the GMA Board has jurisdiction and is qualified by "experience or training in matters pertaining to land use planning," and (3) that no more than two members may reside in the same county nor be from the same political party. RCW 36.70A.260.

In summary, in order to effectuate the true legislative intent of the GMA, local legislative bodies must be free to address local needs and concerns. Each GMA Board's limited quasi-judicial role is to ensure that the proper legislative bodies under the GMA are making the decisions mandated.

II. Agricultural Land and Farm Centers and Farm Homes

The majority properly ascertains the definition of agricultural land from the plain language of the GMA and our prior case law. See majority at 8-10 (citing City of Redmond v. Cent. Puget Sound Growth Mgmt. Hearings Bd., 136 Wn.2d 38, 959 P.2d 1091 (1998)). However, the majority and I differ as to the appropriate remedy. The majority would remand the issue to the Board and instruct them to apply the definition. Majority at 12. This will further protract and delay while not allowing the appropriate local government to govern.6

I also would remand to the Board (as remand is procedurally necessary) but would instruct the Board to remand to Lewis County to allow the county and its legislative body to correct the designations of land given this new definition. Lewis County must be allowed to alter its plans, if it so desires.

The majority summarily affirms the Board's finding of noncompliance pertaining to farm homes and farm centers. See majority at 16.
Specifically, the Board found that the provisions allowing farm centers and farm homes failed to comply with the GMA requirements for designation of agricultural resource lands. Clerk's Papers (CP) at 31. I disagree. The farm centers and farm homes that Lewis County allowed are compatible with agricultural lands under the requirements of the GMA.

Lewis County allowed specific farm homes and farm centers to be excluded from the designation of long-term agricultural lands (and thus allowed in those areas):

Long-term commercially significant designations do not include (a) the "farm home" (a house currently on designated lands as the date of designation and a contiguous 5 acres, to be segregated by boundary line adjustment for separate financing purposes; and (2) "farm centers," being those lands existing at the time of designation, marked by impervious (gravel or paved) surfaces, including buildings and sheds and storage areas) not to exceed 5 acres, which shall be available for rural commercial and industrial uses under guidelines established as a conditional use. (Non-farm development on the farm center shall not be effective until the County completes the terms of the special use permit.)

Lewis County Ordinance 1179E, CP at 418 (emphasis added). These farm homes and farm centers were areas that had preexisting nonagricultural uses. Id. In adopting the above ordinance, Lewis County reasoned that "{t}he family home on the farm is not farmed and is often used for numerous activities that provide economic return to the farm family other than farm agriculture." CP at 255. Regarding farm centers, such as roadside stands for sale of farm products, Lewis County reasoned that "{f}arms in Lewis County have areas developed by paved or gravel level areas, barns, sheds, storage facilities, equipment and machine storage and maintenance areas . . . {s}uch areas support the farm activity, but are not cropped, tilled, or generally used for soil-based agriculture, nor are they likely to in the future." CP at 255. Moreover, the farm centers were to be "centered around the existing barn and shed facilities." CP at 255.

The purpose of farm homes and farm centers was to ensure the long-term survival of agricultural land by allowing farmers to supplement their income. "{M}ost farms are not economically self sufficient . . . 'on farm non farm income' and the ability of the farm to provide non farm economic opportunities are both essential to the survival of long-term agriculture in Lewis County." CP at 254-55; 853. This income is a substantial component of financial viability for farms in Lewis County.

Such farm centers were often already developed on lands in which the soil was not used for agriculture. A farm house and contiguous land was limited to five acres. Lewis County's Opening Br. at 30. Thus, these farm centers and farm homes have a minimal effect on agricultural land. Lewis County notes that The designation of the farm home and the farm center from long-term commercially significant lands will not have a major impact on the conservation and protection of long-term commercially significant agricultural lands because

a. Such lands are commonly not in production; and

b. The land removed from the total designation is estimated to be approximately 2,000 acres, still leaving ample reserve for current agricultural production and future growth.

CP at 255-56. Moreover, home occupations and small commercial activities have previously coexisted with and supported farms and there is no evidence that such coexistence harmed the long term commercial significance of agricultural land. See CP at 857.
The majority states that "(s)erving the farmer's ... economic needs is not a ... permissible consideration under the GMA." Majority at 15. This is illogical and would lead to fewer farms. As a legal conclusion, it is wrong; the GMA does not prohibit consideration of farmer's economic needs.

The majority reads RCW 36.70A.030(10) as an exclusive list of what "long-term commercial significance" means. Majority at 11. However, the plain language of the statute shows that the list is not exclusive: "(l)ong-term commercial significance' includes the growing capacity, productivity, and soil composition of the land for long-term commercial production." RCW 36.70A.030(10) (emphasis added). Thus, counties may consider other factors in determining whether land has "long-term commercial significance," including the farmers' economic needs. Moreover, as the planning commission recognized, "most farms are not economically self sufficient, and that 'on farm non farm income' and the ability of the farm to provide non farm economic opportunities are both essential to the survival of long-term agriculture in Lewis County." CP at 254-55. Allowing farm centers actually furthers the goals of the GMA because farmers will continue to farm because they are able to ensure a profit by supplementing their income through sales, etc.

Farm centers and farm homes are compatible with the requirements of the GMA and may be necessary to perpetuate farms, as the Lewis County elected officials decided after extended and public consideration.

III. Non-Resource Uses

The GMA directs counties to do management and planning but allows county government broad discretion to decide what is best for each county. This discretion is especially important when considering non-resource uses on forest and agricultural land.

RCW 36.70A.060, the development regulations for natural resource lands and critical areas, uses mandatory language and thus imposes a requirement. RCW 36.70A.060(1) provides:

Each county ... shall adopt development regulations on or before September 1, 1991, to assure the conservation of agricultural, forest, and mineral resource lands designated under RCW 36.70A.170. Regulations adopted under this subsection may not prohibit uses legally existing on any parcel prior to their adoption and shall remain in effect until the county or city adopts development regulations pursuant to RCW 36.70A.040. Such regulations shall assure that the use of lands adjacent to agricultural, forest, or mineral resource lands shall not interfere with the continued use, in the accustomed manner and in accordance with best management practices, of these designated lands for the production of food, agricultural products, or timber, or for the extraction of minerals.

(Emphasis added).

This court interpreted this statute in the "Soccer Fields" case stating:

"The County is to conserve agricultural land in order to maintain and enhance the agricultural industry and to discourage incompatible uses." King County v. Cent. Puget Sound Growth Mgmt. Hearings Bd., 142 Wn.2d 543, 557, 14 P.3d 133 (2000) (emphasis omitted) (hereinafter Soccer Fields).

RCW 36.70A.177(1), allowing innovative zoning techniques, uses discretionary language, which indicates a recommendation not a requirement:
A county or a city may use a variety of innovative zoning techniques in areas designated as agricultural lands of long-term commercial significance under RCW 36.70A.170. The innovative zoning techniques should be designed to conserve agricultural lands and encourage the agricultural economy. A county or city should encourage nonagricultural uses to be limited to lands with poor soils or otherwise not suitable for agricultural purposes.

(Emphasis added). The explicit purpose of this statute is to allow counties to apply creative alternatives that conserve agricultural lands and maintain and enhance the agricultural industry. Soccer Fields, 142 Wn.2d at 561.

The majority reads these two statutes together to mean that "counties may choose how best to conserve designated lands as long as their methods are 'designed to conserve agricultural lands and encourage the agricultural economy.'" Majority at 17. Thus, Lewis County has discretion in its land designations, but should aim to conserve agricultural lands and encourage the agricultural economy. This is the standard we use when reviewing a board's determination of noncompliance and invalidity regarding non-resource uses.

The majority states:

{The Board essentially interpreted the GMA to prohibit negative impacts on agricultural lands. CP at 676. That is consistent with the RCW 36.70A.060 directive to conserve designated agricultural lands, the RCW 36.70A.020(8) goal of maintaining and enhancing the agricultural industry, and the Soccer Fields holding that innovative zoning may not undermine conservation.

Majority at 19-20. However, the Board did not specify any negative impact Lewis County's non-resource uses had on agricultural land. Thus, the Board failed to adequately consider the uses and did not support its findings with evidence. The Board decision did not further the goal of maintaining and enhancing the agricultural industry and may actually undermine farm survival. As discussed above, the many small farms composing "agricultural industry" often need supplemental income to survive. Finally, the Soccer Fields case is easily distinguished. In that case entire parcels of agricultural land were being converted to long-term and nonagricultural uses of recreational fields. Here only a small and specified portion of some agricultural land parcels are being used in each instance (cumulatively little).

The uses that the Board found noncompliant are actually consistent with the GMA when given proper consideration (as Lewis County did here).

A. Lewis County Code (LCC) 17.30.470(2) (c) and (d): Forest Land Incidental Uses

LCC 17.30.470 allows incidental uses on forest land, which may provide supplementary income, "without detracting from the overall productivity of the forestry activity." (Emphasis added). The uses must not "adversely affect the overall productivity of the forest nor affect more than five percent of the prime soils{7} ... on any forest resource lands;" the use must be "secondary to the principal activity of forestry;" and the use must be "sited to avoid prime lands where feasible and otherwise to minimize impact on forest lands of long-term commercial significance. LCC 17.30.470(1); Attach. III (Lewis County's Am. Opening Br.) at 178-79 (Attach. III).

The Board declared several subsections of LCC 17.30.470 as noncompliant and invalid: (2)(c), allowing telecommunication facilities as an incidental activity, and (2)(d), allowing the "erection, construction, alteration, and maintenance of gas, electric, water, or communication and public utility
facilities." Attach. III at 179; CP at 46. The Board reasoned that the restrictions on the incidental uses did not fulfill the GMA requirement that natural resource lands be conserved and incompatible uses discouraged.

CP at 46.

Lewis County had reasoned that these incidental uses are necessary because the county's residential corridors are surrounded by forest lands, any cross county public utility will necessarily cross either forest or agricultural lands. CP at 866. Moreover, most of the prominent hills in the county are located in forest land, thus any desire to run communication lines or towers on tall hills will require that they be located in forest lands. CP at 866.

Considering the protective limits Lewis County placed on the minimally intrusive incidental uses, as well as the necessity of those uses and their importance to the agricultural economy, the uses meet the GMA's directive to conserve agricultural lands and encourage the agricultural economy. The uses comply with the GMA and are well within Lewis County's discretion under the GMA.

B. LCC 17.30.480: Essential Public Facilities (forest land)

LCC 17.30.480 provides:

Essential public or regulated facilities, such as roads, bridges, pipelines, utility facilities, schools, shops, prisons, and airports are facilities, which by their nature are commonly located outside of urban areas and may need large areas of accessible land. Such areas are allowed where:

(1) Identified in the comprehensive plan of a public agency or regulated utility.

(2) The potential impact on forestry lands and steps to minimize impacts to commercial forestry are specifically considered in the siting process.

In deciding that this section was both noncompliant and invalid, the Board admitted that:

There are essential public facilities such as roads, bridges, pipelines and utility lines that must, of necessity, be located in resource lands.

Clearly, the County must take into account the need for the construction of such facilities in resource lands. However, the County must also assure that the construction of these essential public facilities in forest resource lands does not interfere with the use of the resource.

CP at 47. Lewis County notes that one-third of the county is in designated forest lands. CP at 871. Thus, essential public facilities including roads, bridges, pipelines, and utility lines must be located in resource lands.

This section of Lewis County's code is compliant and valid because the County has appropriately balanced the requirement for essential public facilities with conservation of forest land. The evidence supporting this appropriate balance includes the admitted fact that forest land encompasses a large percentage of Lewis County, and the requirements of section 480 that uses must be identified in the comprehensive plan. The impact of each use on the forest land is considered and minimized in the siting
process.

The legislature required the counties to receive deference in making such decisions.

C. LCC 17.30.490(3) (b) and (g): Maximum Density and Minimum Lot Area (forest land)

LCC 17.30.490(3) provides:

Subdivision as an Incidental Use. A residential subdivision of land for sale or lease within primary or local forest lands, whether lots are over or under five acres in size, may be approved under the following circumstances.

(a) The total density, including existing dwellings, is not greater than one unit per 80 acres, for forest land of long-term commercial importance, and that one unit per 20 acres for forest lands of local importance.

(b) The units are clustered on lot sizes consistent with Lewis County board of health rules for wells and septic.

(c) Adequate water and provisions for septic are in fact present.

(d) The project affects none of the prime soils on the contiguous holdings at the time of the adoption of this chapter, including all roads and accessory uses to serve the development; however, that prime lands previously converted to non-forestry uses are not considered prime forest lands for purposes of this section.

(e) The plat shall set aside the balance of the parcel in a designated forest tract.

(f) The plat shall contain the covenants in LCC 17.30.540.

(g) Any subdivision shall meet the cluster subdivision requirements of LCC 17.115.030(10)

The Board found subsections (b) and (g) noncompliant and invalid. CP at 48. The Board stated that "{1}limitations on clustering are needed to ensure that residential subdivisions will not interfere with forestry activities." CP at 46. However, the section contains many limitations designed to protect forest activities—no prime soils may be affected, water provisions must be in place, and clustering restrictions contained in LCC 17.115.030(10). These limitations are sufficient to fulfill the GMA requirement of conserving forest land. Thus, the challenged sections are compliant and valid.

D. LCC 17.30.510: Water Supply

(1) When residential dwellings, other structures, or any other use intended to be supplied with water from off-site sources, an easement and right running with the land shall be recorded from the property owners supplying the water prior to final plat approval, building permit issuance, or regulated use approval.

(2) Due to the potential to interfere or disrupt forest practices on forest lands, new residential or recreational public water supplies shall comply with state standards and shall not be located within 100 feet of classified forest lands without an easement from the adjacent or abutting forest land property.
owner.

The Board found LLC 17.30.510 to be in violation of the GMA, RCW 36.70A.110 (4), 36.70A.0609 and 36.70A.040. CP at 49. The Board based its conclusion on chapter 36.70A RCW claiming the provision "runs afoul of the GMA prohibition against providing urban governmental services outside of urban growth areas." CP at 48. The Board stated The extension of water systems (whether owned privately or publicly) to natural resource lands for residential purposes clearly violates the GMA by encouraging intense levels of development in resource lands and encouraging nonresource-related uses of those lands.

CP at 48.

The Board's conclusion ignores the GMA's balancing of the 13 planning goals and fails to implement the GMA's clear mandate that cities and counties are to make planning decisions—not boards.

To properly apply chapter 36.70A RCW, we must be guided by legislative intent as expressed in the language of the GMA. Cannon v. Dept of Licensing, 147 Wn.2d 41, 57, 50 P.3d 627 (2002); Rozner v. City of Bellevue, 116 Wn.2d 342, 347, 804 P.2d 24 (1991). All of the GMA provisions must be considered in their relation to one another, and if possible, harmonized to ensure proper construction of each provision. City of Seattle v. Fontanilla, 128 Wn.2d 492, 498, 909 P.2d 1294 (1996).

The Board's decision implies that extension of water systems to natural resource lands for residential purposes may never occur. This is not consistent with the GMA. There are 13 planning goals that must be balanced and harmonized with others. This balancing and harmonizing is within the discretion of the cities and counties. See Manke Lumber, 113 Wn. App. at 626-27. The protection of natural resources and critical areas is just one of the 13 planning goals under the GMA. The other planning goals require, inter alia, cities and counties to balance economic development needs, private property needs, and environmental needs. The blanket ban on extension of water systems to natural resource lands renders RCW 36.70A.110(4), 36.70A.040, and 36.70A.060 inconsistent with the GMA's harmonizing approach and inconsistent with the discretion given to local cities and counties to balance those goals.

E. LCC 17.30.620(3) and (4): Primary Uses

LCC 17.30.620(3) and (4) allowed several "primary uses" on agricultural land including:

(3) One-single family dwelling unit or mobile home per lot, parcel, or tract, and the following farm housing:

(a) Farm employee housing; or

(b) Farm housing for immediate family members.

(4) Active mineral resource activities, including mining, processing, storage, and sales.

LCC 17.30.620(3), (4). The Board held these uses noncompliant and invalid. CP at 38-39.

Regarding section (3), housing, the Board inconsistently acknowledged that

"{f}arm worker housing and housing for immediate family members ... may well be a resource-related use." CP at 38. The record here supports the necessity to encourage young
members of families to stay on the farm. CP at 877. Further, farm worker housing is a resource related use that maintains and enhances the agricultural industry. Section (3) is an allowable use under the GMA.

Regarding section (4), mining, the Board held that the provision does not comply with the GMA to the extent mining activities are allowed without restriction in agricultural resource lands. CP at 37. The Board noted that mining activities are nonagricultural uses with great potential to impact agricultural activities and the lands themselves. CP at 38.

Lewis County argued that mining (presumably sand and gravel) is allowed to provide on-farm non-farm income. CP at 877.

The Board erroneously held that allowing any such mining in agricultural areas would not comply with the GMA. It is likely that mining (as further defined) could be allowed in an agricultural area with the appropriate restrictions. However, such use may be better included in the incidental uses section discussed directly below.

F. LCC 17.30.640(2) (b) (c) and (e)

LCC 17.30.640, Incidental uses, provides for "(u)ses which may provide supplementary income without detracting from the overall productivity of the farming activity." (Emphasis added). The Board found subsections (2)(b), (c), and (e) noncompliant. CP at 42. LCC 17.30.640(2) (Ord. 1170B, 2000) provides:

(2) Uses Allowed as Incidental Activities.

.......

(b) Telecommunication facilities;

(c) Public and semipublic buildings, structures, and uses including, but not limited to, fire stations, utility substations, pump stations, wells, and transmission lines;

.......

(e) Home based business subject to the same size requirements, development conditions, and procedures and processes as home based businesses authorized under LCC 17.42.40{.}

Subsection (1) qualifies these allowed uses by stating that such uses "will not adversely affect the overall productivity of the farm nor affect any of the prime soils on any farm." LCC 17.30.640(1)(a). The code itself states that uses may not detract from the overall farming activity and that such uses will not affect any of the prime soils. Lewis County has properly qualified the non-farm incidental uses in its code. Thus, the County requirements for a non-farm use assure the conservation of agricultural lands as required by RCW 36.70A.060.

G. LCC 17.30.650: Essential Public Facilities (agricultural land)

This section is similar to the requirements in LCC 17.30.480, discussed above. LCC 17.30.650 provides:
Essential public or regulated facilities, such as roads, bridges, pipelines, utility facilities, schools, shops, prisons, and airports, are facilities, which by their nature are commonly located outside of urban areas and may need large areas of accessible land. Such areas are allowed where:

(1) Identified in the comprehensive plan of a public agency or regulated utility.

(2) The potential impact on farmed lands and steps to minimize impacts to commercial agriculture are specifically considered in the siting process.

The Board concluded that this section was noncompliant and invalid. CP at 43. Regarding roads, bridges, pipelines, and utility lines, the Board found noncompliance because there were no restrictions ensuring minimal interference with agricultural activity. CP at 43. However, the Board overlooked the restrictions which are written into the statute; the public facilities must be identified in the comprehensive plan and the impact on the lands must be considered and minimized when determining the location of such facilities.

Regarding schools, shops, prisons, and airports, the Board found noncompliance because the uses interfere with agricultural uses and do not need to be placed on agricultural land. CP at 43. It is appropriate that Lewis County consider the need for such facilities on agricultural land.

An example of such a need would be allowing some schools to be sited in agricultural areas to shorten student commutes.

H. LCC 17.30.660(1): Maximum Density and Minimum Lot Area (agricultural land)

This section is similar to the requirements in LCC 17.30.490(3), discussed above. LCC 17.30.660(1) provides:

The minimum lot area for any new subdivision, short subdivision, large lot subdivision or exempt segregation of property shall be as follows, except for parcels to be used for uses and activities provided under LCC 17.30.610 through 17.30.650:

(1) Development Standards - Division of Land for Sale or Lease. The minimum lot area for subdivision of commercial farmland shall be 20 acres; provided, however, that a residential subdivision of land for sale or lease, whether lots are over or under five acres in size, may be approved under the following circumstances:

(a) The total density of residential development on the entire contiguous ownership, including existing dwellings, is not more than one unit per 20 acres.

(b) The units are clustered on lot sizes consistent with Lewis County board of health rules for wells and septic.

(c) Adequate water and provisions (for) septic capacity are in fact present.

(d) The project affects none of the prime soils on the contiguous holdings at the time of the adoption of the ordinance codified in this chapter, including all roads and accessory uses to serve the development; provided, however, that prime lands previously converted to non-crop related agricultural uses, including residential, farm and shop buildings and associated

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yards, parking and staging areas, drives and roads, are not considered prime farm lands for purposes of this section.

(e) The plat shall set aside the balance of the prime farm lands in a designated agricultural tract.

(f) The plat shall contain the covenants and protections in LCC 17.30.680.

(g) Any subdivision shall meet the cluster subdivision requirements of LCC 17.115.030(10).

The Board found subsections (b) and (g) noncompliant and invalid. CP at 56. The Board expressed concern that clustering would not conserve agricultural lands and encourage the agricultural economy. CP at 44.

However, the section contains many limitations designed to protect agricultural activities—no prime soils may be affected, water provisions must be in place, and clustering restrictions are contained in LCC 17.115.030(10). These limitations are sufficient to fulfill the GMA's requirement of conserving agricultural land. Thus, the challenged sections are compliant and valid.

IV. Conclusion

I concur with the majority's conclusion regarding the definition of agricultural land. However, the majority incorrectly proceeds to allow the Board—instead of the County—to decide that farm centers and farm homes are improper on agricultural land and that certain non-resource related uses are improper on agricultural and forest lands. By remanding to the Board instead of through the Board to the County to apply the decision, the local control mandated by the legislature in the GMA is further frustrated.

The proceedings and resulting delay imposes costs easily avoided by my recognition of the legislature's intent. Therefore, I concur in part and dissent in part.

AUTHOR:

Justice James M. Johnson

WE CONCUR:

Justice Tom Chambers
Justice Richard B. Sanders

Footnotes:

1. We disagree with the dissent's assertion that this court should "instruct the Board to remand to Lewis County to allow the county and its legislative body to correct the designations of land given this new definition." Dissent at 8. First of all, we are not establishing a "new definition." The legislature defined agricultural land when it adopted RCW 36.70A.030(2). We are simply interpreting that definition, using traditional tools of statutory construction in order to resolve the present dispute over what the legislature meant in adopting RCW 36.70A.030(2).
Secondly, the GMA already requires the Board to remand to the county any regulation or plan that is determined to be noncompliant. RCW 36.70A.300(3). Therefore, to the extent that Lewis County's designation of 54,400 acres of agricultural land turns out to be off the mark, the GMA already ensures that the county will decide how to correct that problem. In that sense, we do not disagree with the dissent. Besides, because we affirm the Board's other findings of noncompliance, Lewis County already will have to reconsider its approach to conserving designated lands.

Finally, although we conclude that both the Board and Lewis County misinterpreted the definition of agricultural land in RCW 36.70A.030(2), that does not necessarily mean that Lewis County designated the wrong parcels (or too few of them). The extent to which the designated parcels match the actual definition of agricultural land is a compliance question, and therefore is properly directed to the Board, the agency charged with determining GMA compliance. RCW 36.70A.320(3). It seems that the dissent would bypass the Board and allow counties to decide whether their own actions comply with the GMA. For example, the dissent complains that these "unelected boards" may "micromanage land use plans for counties." Dissent at 1 n.1. While bypassing the Board certainly would promote the dissent's goal of "allowing the ... local government to govern" it would contradict the intent of the legislature for a quasi-judicial body to evaluate GMA compliance. Dissent at 8.

2. Planning Commissioners ultimately recommended conserving 2,800 acres fewer than the county staff had recommended.

3. One condition was to "not adversely affect the overall productivity of the farm nor affect any of the prime soils on any farm." CP at 381.

4. Petitioners included Vince Panesko, Eugene Butler, and 14 other respondents in this case.

5. The Board found that only 5,765 of the 117,767 acres being farmed in Lewis County as of 1997 were irrigated.

6. The reconsideration order also reversed the Board's invalidation of maps designating Class A and Class B farmlands, finding that those lands were adequately protected pending full compliance. But the order upheld the invalidation of maps designating "Class C" farmlands in rural zones--citing concerns that land with prime soils or recent farming activity could be lost to non-farm development in the absence of agricultural zoning.

7. The dissent wrongly summarizes the Board's role as merely this: "to ensure that the proper legislative bodies under the GMA are making the decisions mandated," as if any decisions will do. Dissent at 7. Actually, the Board is empowered to determine whether county decisions comply with GMA requirements, to remand noncompliant ordinances to counties, and even to invalidate part or all of a comprehensive plan or development regulation until it is brought into compliance. RCW 36.70A.300 (3), .320(3), .302(1). In other words, the Board is more than a deskbook dayminder telling counties what decisions are due.

8. Lewis County became subject to GMA planning mandates in July 1993 and first designated agricultural lands in 1996. Until 1996, the county had no zoning laws at all.

9. The issue in Benaroya I was whether a landowner must intend for the land to be "devoted to" agriculture to be subject to designation. We said, "While the land use on the particular parcel and the owner's intended use for the land may be considered along with other factors in the determination of whether a parcel is in an area primarily devoted to commercial agricultural production, neither current
use nor landowner intent of a particular parcel is conclusive for purposes of this element of the statutory definition." Benaroya I, 136 Wn.2d at 53.

10. The decision refers to WAC 365-190-060 but cites language identical to the current WAC 365-190-050.

11. Interestingly, while the State of Washington's amicus brief argues that the "structure" of WAC 365-190-050 supports the primacy of soil characteristics, it does not mention the extensive text devoted to these development-related considerations that have nothing to do with soil.

State's Amicus Curiae Br. at 10. Besides, the regulation's structure merely mirrors the order in which the underlying statute, RCW 36.70A.030(10), lists the factors to consider in determining long-term commercial significance. Neither the statute nor the regulation purports to prioritize those factors.

12. Rather than focusing on the mandates of RCW 36.70A.060 and .170 to designate and conserve agricultural lands as defined in RCW 36.70A.030, the county's opening brief, reply brief, and its answer to the amicus brief of Futurewise inexplicably dwell on GMA "planning goals," which merely offer guidance. See RCW 36.70A.020 ("The following goals are adopted to guide the development and adoption of comprehensive plans and development regulations . . . ." (emphasis added)). The county's line of argument is misguided. Quadrant Corporation v. Central Puget Sound Growth Management Hearings Board held that when there is a conflict between the "general" planning goals and more specific requirements of the GMA, "the specific requirements control." Quadrant Corp. v. Cent. Puget Sound Growth Mgmt.

Hearings Bd., 119 Wn. App. 562, 575, 81 P.3d 918 (2003), rev'd in part on other grounds, 154 Wn.2d 224, 110 P.2d 1132 (2005); see also Quadrant Corp., 154 Wn.2d at 246 (2005) (this court "did not rely on the applicable goal in isolation nor did it hold the goals to independently create substantive requirements"). Thus, the county is mistaken in its apparent belief that the general goal in RCW 36.70A.020(8) is the test for defining agricultural lands.

13. For example, the county said it considered growing capacity and productivity by requiring agricultural land to have certain soil types, as well as sufficient irrigation capability "to grow the primary agricultural crops produced in Lewis County." CP at 378. The county considered predominant parcel size by requiring agricultural land to be at least 20 acres (for economic viability), or to meet the United States Department of Agriculture definition of "commercial" agriculture. The county considered availability of public facilities and services by requiring agricultural lands to be located outside areas where urban-level services are "conducive to the conversion" of farmland. Id. at 379.

14. For example, in finding that farms need gross sales of $25,000 or more for potential long-term significance, the county could have been considering "productivity" of the land or the "possibility of more intense uses" pursuant to RCW 36.70A.030(10). It is not necessarily error to assume that farms with meager income are likely to succumb to development pressures.

Similarly, in finding that farms smaller than 180 acres may not be cost effective, the county could have been considering productivity, the possibility of more intense uses, or "predominant parcel size."

15. While the county's briefs discuss this issue in the context of zoning choices, the Board correctly treated it as a designation issue. The Board found that excluding farm homes and farm centers from designated agricultural land was "clearly erroneous" because it "creates isolated pockets of inconsistent zoning in farmlands" and makes adjacent lands vulnerable to de-designation. CP at 649, 675.
16. The dissent suggests that a county may designate agricultural land based on a farmer's economic needs or, for that matter, any other factors it deems worthy. Indeed, the dissent repeatedly invokes "discretion" as a mantra, as if the GMA places no bounds on county decisions. Dissent at 1, 2, 12, 14, 17, 22. For example, in defending Lewis County's decision to allow mining, residential subdivisions and other non-farm uses within designated farmlands, the dissent merely recites Lewis County's arguments without reference to the applicable GMA language. But the GMA says that Board deference to county decisions extends only as far as such decisions comply with GMA goals and requirements. RCW 36.70A.3201. In other words, there are bounds. Furthermore, although we agree with the dissent that counties may consider factors besides those specifically enumerated in RCW 36.70A.030(10) in evaluating whether agricultural land has long-term commercial significance, that is not what happened here. Rather, Lewis County simply decided to serve its own goal, serving the farmer's non-farm economic needs, instead of meeting the GMA's specific land designation requirements.

17. The dissent appears to misperceive the scope of that RCW 36.70A.177 requirement for zoning methods to be "designed to conserve agricultural lands and encourage the agricultural economy." That is simply the standard that a county must meet if it uses an innovative zoning technique to conserve agricultural lands. Confusingly, the dissent asserts that it is also "the standard we use when reviewing a board's determination of noncompliance and invalidity regarding non-resource uses." Dissent at 14.

But the standard of review for Board determinations of noncompliance, as already noted, is drawn from the APA. Rather than apply the APA standard of review, the dissent simply offers bare assertions, i.e., "The uses that the Board found noncompliant are actually consistent with the GMA" to justify its conclusion that the Board erred. Dissent at 15.

18. Because we decide this case on statutory grounds we do not reach the procedural issues raised by Lewis County.

1 A separate concern, of constitutional dimension, is not presented today; whether these sui generis unelected boards, appointed by the governor, may overrule county legislators and micromanage land use plans for counties.

2 RCW 36.70A.020 lists the goals as:

1. Urban growth
2. Reduce sprawl
3. Transportation
4. Housing
5. Economic development
6. Property rights
7. Permits
8. Natural resource industries
9. Open space and recreation
10. Environment

11. Citizen participation and coordination

12. Public facilities and services


3. Ch. 90.58 RCW.

4 Ch. 43.21C RCW.

5 King County v. Cent. Puget Sound Growth Mgmt Hearings Bd., 142 Wn.2d 543, 553, 14 P.3d 133 (2000).

6 Notably, Lewis County has apparently been under constant review of the Board since 2000 as the Board found Lewis County noncompliant in 2000, 2001, and 2002. Pursuant to RCW 36.70A.130(4)(b) the Board is to review Lewis County's comprehensive plan every seven years. Thus, by the time this opinion issues, Lewis County will be on the cusp of yet another review and they have not fully completed this review.

7 The omitted language of the quote provides "(15 percent as provided below in LCC 17.30.490 (3))", Attach. III (Lewis County's Am. Opening Br.) at 178 (Attach. III). A notation next to the quote provides "error - see strike out at 17.30.490(3)(d)." 17.30.490(3)(d) strikes out the words "15 percent or less". Attach. III at 180. The County states that the 15 percent clause was erroneously left in the subsection and should have been struck out. We assume that the County means what it says and has corrected this error.

8 LCC 17.115.030(10) provides:

Cluster Subdivisions greater than six units.

(a) Special conditions.

(i) Must be on properties 40 acres and larger.

(ii) No more than 24 cluster subdivision units in any 1/2-mile radius, except where separated by a visual geographic barrier.

(iii) The hearing examiner shall examine the existing and proposed development within a one-mile radius of the perimeter of the proposed site to protect rural character and shall:

(A) Determine the nature of existing development and availability of adequate facilities.

(B) Determine the likelihood of probably future cluster development.

(C) Determine the cumulative effect of such existing and probable future development.

(iv) The hearing examiner shall make written findings that the area in which the cluster is located is within the population targets of Table 4.3, p. 4-63 of the Lewis County
comprehensive plan.

(v) The hearing examiner shall identify necessary conditions, including caps or specific limitations to assure that urban development defined in RCW 36.70A.030(17) as prohibited outside urban growth areas by RCW 36.70A.110 does not occur, and that the rural character identified in the comprehensive plan and RCW 36.70A.030(16) and RCW 36.70A.070(5) (b) is protected, and to achieve the specific requirements of RCW 36.70A.070(5)(c).

9 Natural resource lands and critical areas - Development regulations.
EXHIBIT “B”

WAC 365-190-050
Agricultural lands.

(1) In classifying agricultural lands of long-term significance for the production of food or other agricultural products, counties and cities shall use the land-capability classification system of the United States Department of Agriculture Soil Conservation Service as defined in Agriculture Handbook No. 210. These eight classes are incorporated by the United States Department of Agriculture into map units described in published soil surveys. These categories incorporate consideration of the growing capacity, productivity and soil composition of the land. Counties and cities shall also consider the combined effects of proximity to population areas and the possibility of more intense uses of the land as indicated by:

(a) The availability of public facilities;
(b) Tax status;
(c) The availability of public services;
(d) Relationship or proximity to urban growth areas;
(e) Predominant parcel size;
(f) Land use settlement patterns and their compatibility with agricultural practices;
(g) Intensity of nearby land uses;
(h) History of land development permits issued nearby;
(i) Land values under alternative uses; and
(j) Proximity of markets.

(2) In defining categories of agricultural lands of long-term commercial significance for agricultural production, counties and cities should consider using the classification of prime and unique farmland soils as mapped by the Soil Conservation Service. If a county or city chooses to not use these categories, the rationale for that decision must be included in its next annual report to department of community development.

(3) Counties and cities may further classify additional agricultural lands of local importance. Classifying additional agricultural lands of local importance should include consultation with the board of the local conservation district and the local agriculture stabilization and conservation service committee.

These additional lands may also include bogs used to grow cranberries. Where these lands are also designated critical areas, counties and cities planning under the act must weigh the compatibility of adjacent land uses and development with the continuing need to protect the functions and values of critical areas and ecosystems.