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September 16, 2009

ALL COUNCIL MEMBERS  
WHATCOM COUNTY COUNCIL

Dear Whatcom County Council,

As part of the County Executive proposed changes to the Bellingham Urban Growth Area, our property has been recommended for removal from the Bellingham UGA, a rezone from UR(4) to R(10), and a new land use designation "Urban Growth Area Reserve". We strongly disagree with this recommendation, and ask you to consider the following when looking at our property.

### **About Our Property**

Our property is located in the central portion of the area known as the "Yew St. UGA". We are bordered by the Bellingham City limits to the west, the built out South Hills neighborhood to the South, the new Wade King Elementary School on the property to the east between our property and Yew Street, with the Yew Street Fire Station located next door to the school. There is an extensive network of City water and sewer mains to the south, west, east, and north of our property both in and outside of the City limits, stormwater detention facilities between our property and Lake Padden, a proposed open space anchor directly to the south and west, an existing City neighborhood park bordering our property with proposed trails through our property, and important transportation routes planned into and through our property in cooperation with the City of Bellingham. The newly opened Wade King Elementary School was built in this location based on long standing urban planning for this area. Currently, the school is forced to utilize a temporary onsite water storage tank to provide adequate fire flow and must pump its sewage effluent to the existing City sewer main. The water and sewer systems are considered temporary, waiting on completion of facilities in this area.

### **The City Of Bellingham Itself Offers The Best Arguments For Retaining The Yew Street UGA**

City of Bellingham staff recently confirmed the Yew Street UGA area should remain within the Bellingham UGA. Contained within the Bellingham UGA proposal package is the May 7, 2009 staff memorandum. On page 8, Bellingham states, "The Yew Street UGA has been in Bellingham's UGA since 1997 and in the City/County approved urban service area since the mid-1980s. For nearly 30 years, property owners have had an expectation that their property would be annexed and developed to urban densities. The County, City, Bellingham School District, and private property owners have invested in infrastructure in the area in anticipation of urban development and eventual annexation. We see no justification for removing this area from the UGA only 15 months after the County readopted this UGA boundary and increased the allowed zoning density in some areas."

### **Our Property Can Be Developed In an Environmentally Conscious Manner**

We understand there are concerns about future development affecting the water quality of Lake Padden. Currently, there is urban development to the South, with water, sewer, and stormwater management in place. We will continue to work with Bellingham and develop to standards that will protect Lake Padden from degradation due to our development.

### **Efforts to Develop and Timeline**

Our land has been within the Whatcom County-Bellingham urban service area since the mid 1980's. In addition, our property was requested by Bellingham and adopted by Whatcom County into the Bellingham Interim Urban Growth Area in 1994 and included in the 1995 Bellingham Comprehensive Plan land use mapping. Our UGA designation was also reconfirmed during the 2004 and the 2007/2008 processes.

Development in Whatcom County is a long, expensive, difficult process. At various times our attempts to develop this property in co-operation with the City and County have gone as far as plat applications and a recorded plat. This property represents the final phase in developing our properties in the Yew Street UGA as part of a long term, active development strategy based on city and county desires for the area as expressed in both city and county planning documents over time. There are many years of investment by not only us, but also the City of Bellingham, Whatcom County, and the Bellingham School District. We have been working with Whatcom County and Bellingham to address a few remaining issues and are currently pursuing an annexation request to be brought into the Bellingham City limits.

### **Certainty For Urban Development Within The Non-Rolling 20 Year Planning Period**

When an Urban Growth Area designation such as the one for our property is adopted, the City in partnership with the County take on the commitment to plan public facilities necessary to support the planned development to occur within the UGA. The UGA designation is to provide land owners within the UGA boundary certainty that development within the UGA boundary will occur at urban densities and intensities within the non-rolling GMA planning horizon in which they were adopted.

The removal from UGA status, rezoning to R(10) density, and placement into a "reserve" status does not provide certainty that our property will be allowed to develop at urban densities and intensities within the non-rolling 20 year horizon. Although the "reserve" area is called an Urban Growth Area Reserve, the name itself is misleading because it is outside of the Urban Growth Area. A re-designation to rural without an Urban Growth Area designation has all the appearances of an attempt to 'roll back the clock', to not allow urban growth on our property, and to not fulfill the City and County commitment for this area.

By almost anyone's definition the proposed action represents a taking.

### **Bellingham Needs More Single Family Land Supply**

Single family zoned land in Bellingham has been consumed over the years and not adequately replaced. Levels are so low that even multi-family land is being utilized to build single family housing. Our property is zoned UR(4). When annexed, this property will help supply Bellingham with much needed single family land. Single family land supply cannot be created by designating additional urban villages or by up zoning multi-family land. The current land capacity analysis for Bellingham shows that not only is Bellingham short of land to accommodate growth at historical growth rates, but also has a disproportionately high level of multi-family land. Our project will assist Bellingham to preserve their existing housing stock (goal #4 of the GMA), help to ease gentrification pressure on Bellingham neighborhoods, and provide single family housing to families who will likely turn to rural development when they cannot find what they want in Bellingham.

We hope that you recognize the years of work and investment we have put into our property and keep it as part of the Bellingham Urban Growth Area. Attached to this letter are various maps and excerpts from Growth Management Hearings Board cases we feel you will find useful in making your decision.

Regards,



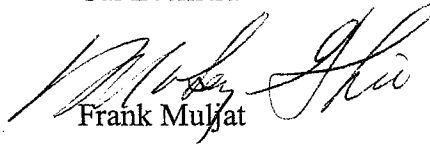
Jim Olson



Cal Leenstra



Mickey Ghio



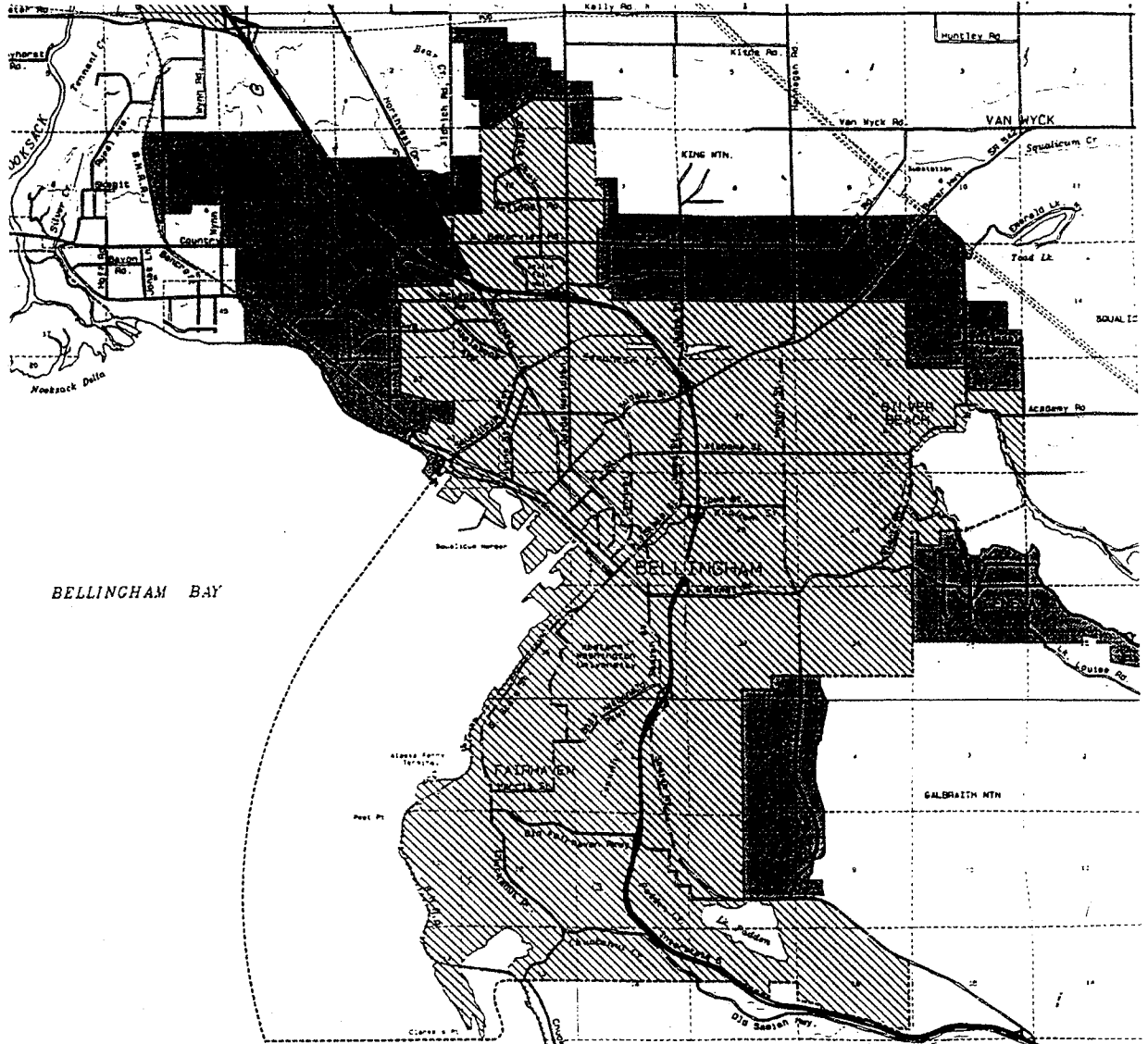
Frank Muljat

## **WHAT THE HEARINGS BOARDS HAVE SAID ABOUT URBAN GROWTH AREAS, CAPITAL FACILITY OBLIGATIONS, AND PROVIDING CERTAINTY FOR URBAN DEVELOPMENT**

1. The Act creates an affirmative duty for cities to accommodate the growth that is allocated to them by the county. This duty means that a city's comprehensive plan must include: (1) a future land use map that designates sufficient land use densities and intensities to accommodate any population and/or employment that is allocated; and (2) a capital facilities element that ensures that, over the twenty-year life of the plan, needed public facilities and services will be available and provided throughout the jurisdiction's UGA. [Hensley III, 96-3-0031, FDO, at 9.]
2. The Act requires local jurisdictions to plan for and accommodate new growth – that projected by OFM and allocated by the County. There is no provision in the GMA to suggest that the Act allows a jurisdiction not to accommodate new growth because it has a capital facilities maintenance backlog or has not guaranteed funding to remove any maintenance backlog, or it is postponing indefinitely its duty to accommodate new growth until its maintenance backlog is removed or reduced. To do so would fly in the face of one of the cornerstones of the GMA. [WSDF IV, 96-3-0033, FDO, at 32.]
3. Although an Interlocal Agreement may address the timing of, and allocation of responsibility for, infrastructure planning in a UGA, the requirements of the GMA govern infrastructure planning within a UGA. [Johnson II, 97-3-0002, FDO, at 19-20.]
4. While project backlogs are a problem faced by most local governments, the GMA does not provide the remedy. (Citing: WSDF IV, 96-3-0033, at 31.) [McVittie IV, 00-3-0006c, FDO, at 15.]
5. All of the mandatory requirements of a comprehensive plan must be fully complete at the time of plan adoption. (citations omitted) A comprehensive plan's capital facility element is inextricably linked to the land use element. The two must be consistent. The linkage between the two elements is what makes planning under the GMA truly comprehensive (i.e., complete, inclusive, connected) as compared to pre-GMA planning. [Bremerton, 95-3-0039c, FDO, at 77.]
6. The lack of a fully completed capital facilities plan is more than a conceptual shortcoming – it is a fatal legal defect in a comprehensive plan. It alone is sufficient cause for the Board to find that the land use element and every other component of a plan violates the requirements of the Act. [Bremerton, 95-3-0039c, FDO, at 77.]
7. There are parameters to the City's obligation to see that infrastructure is provided within the UGA. By creating the UGA boundaries that it has, the City (in partnership with the County) has committed to public facilities necessary to support the planned development within the UGA. However, the time frame for providing those facilities is the twenty-year horizon of the comprehensive plan, not the six-year horizon of the Capital Improvements Plan. *Cedardale Property Owners v. Mount Vernon*, 02-2-0010 (Final Decision and Order, March 28, 2003)
8. Designation of a traditional UGA generally establishes certainty that: 1) the development of the land within it will be urban in nature; 2) this urban land will ultimately be provided with adequate urban facilities and services within the planning horizon; and 3) the land will ultimately be developed at urban densities and intensities. [Johnson II, 97-3-0002, FDO, at 10.]

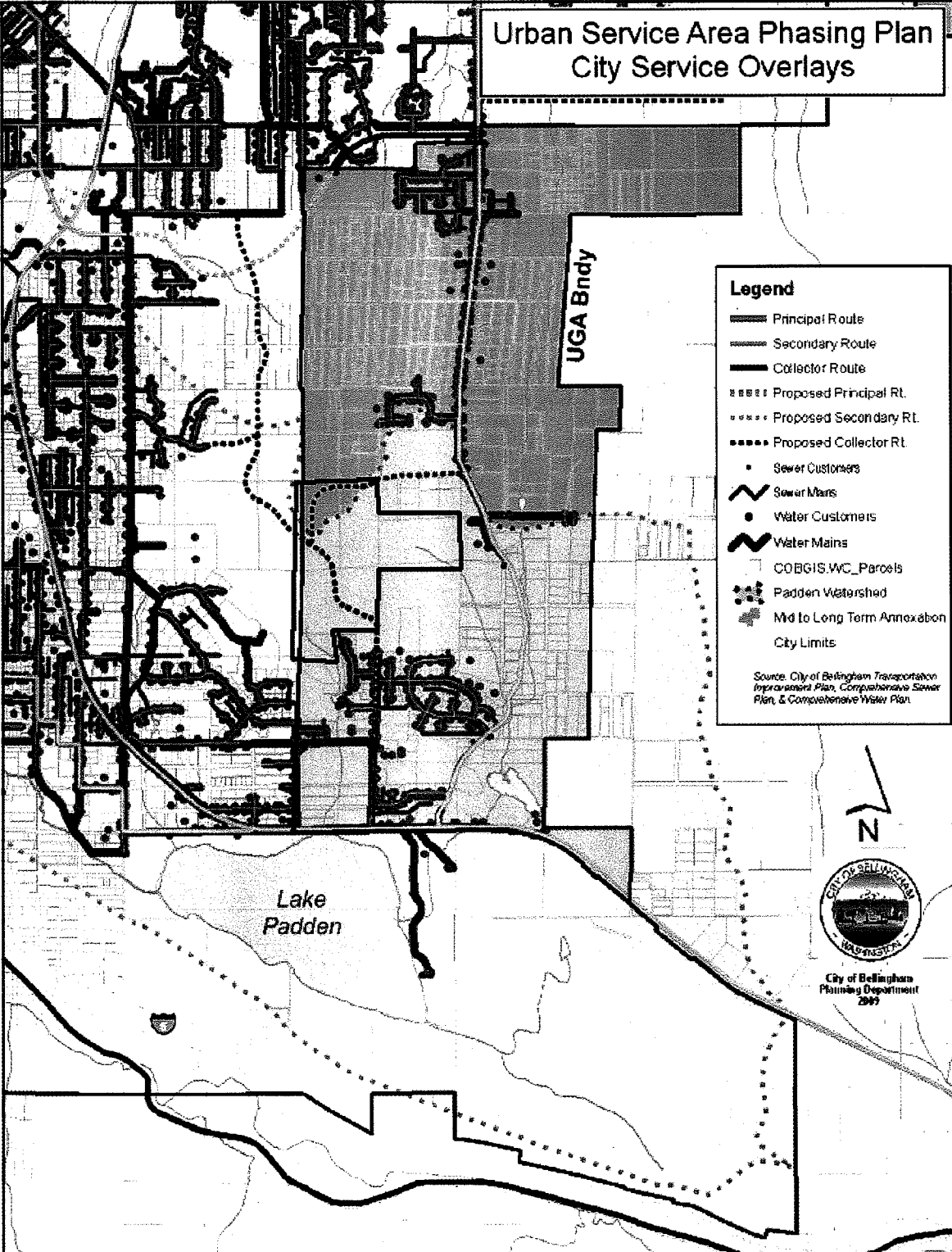
**LAND USE**

**BELLINGHAM AND THE INTERIM  
URBAN GROWTH AREAS\***

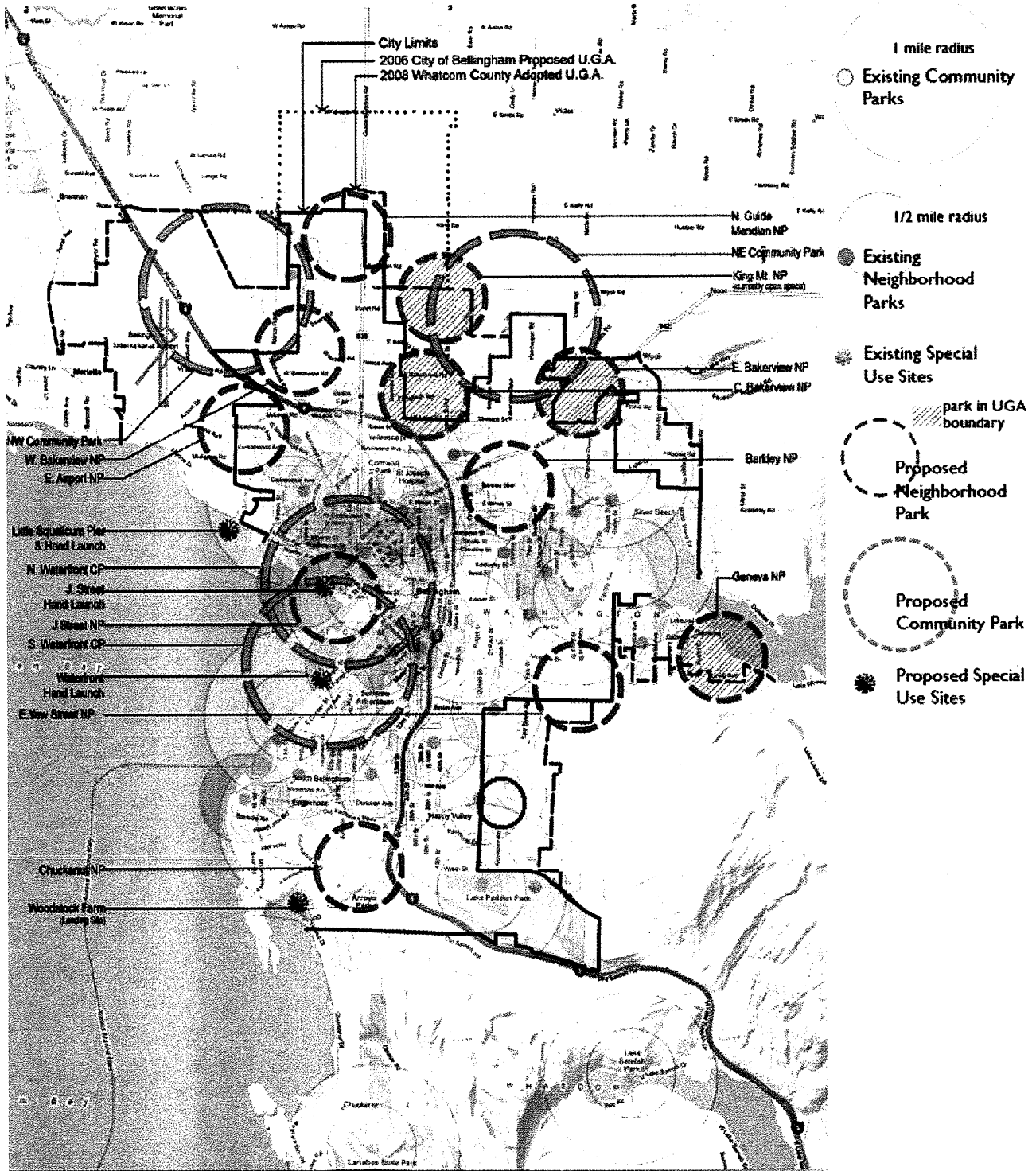


\* At plan adoption the final UGAs had not been adopted by Whatcom County

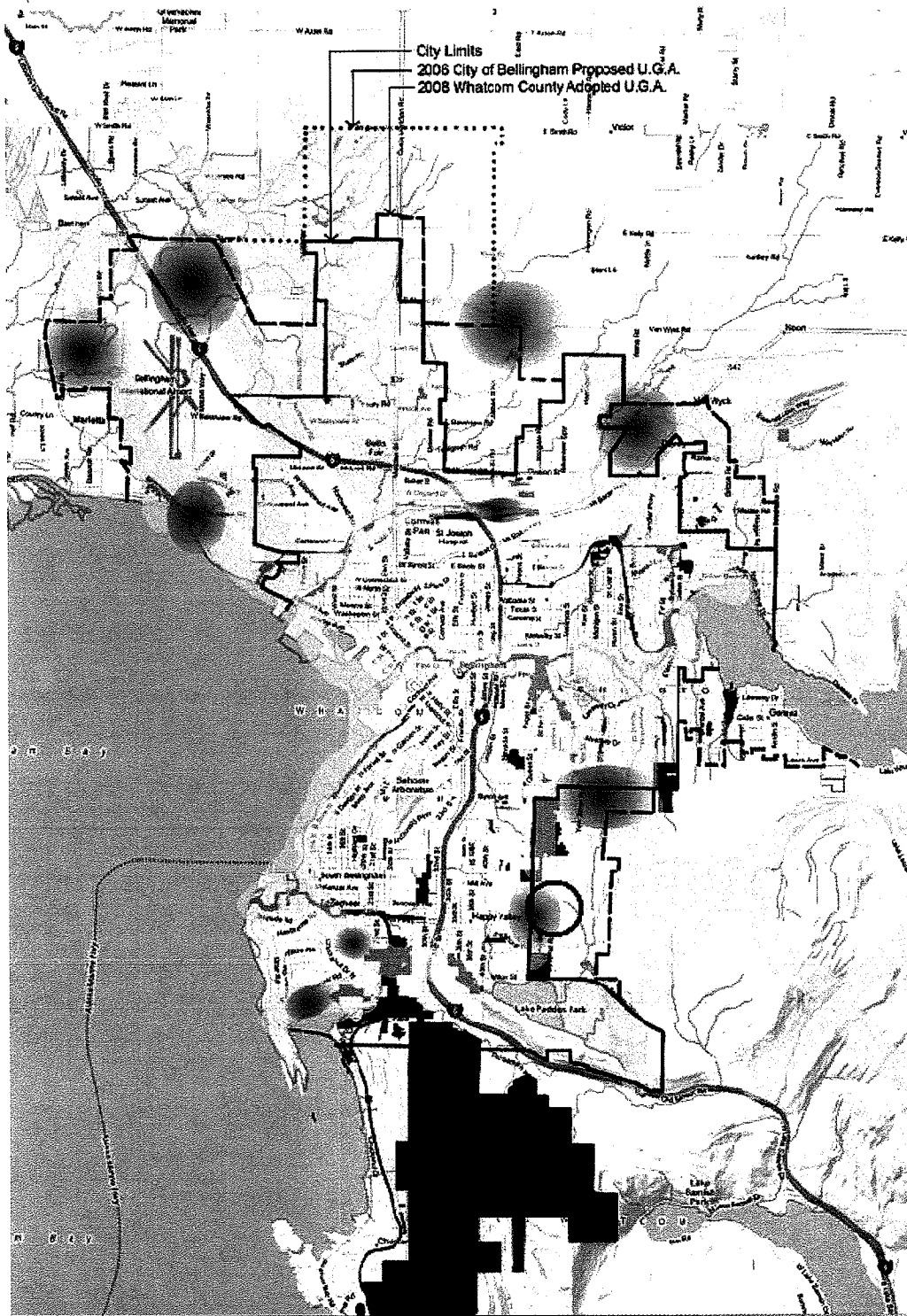
# Urban Service Area Phasing Plan City Service Overlays



# Recommended Facilities Plan • Parks and Special Use Sites



# Recommended Facilities Plan • Open Space



# Recommended Facilities Plan • Trails

