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SEP 17 2009

LONG RANGE  
PLANNING DIVISION

September 17, 2009

Members of the Whatcom County Council  
Members of the Whatcom County Planning Commission  
311 Grand Avenue  
Bellingham, WA 98225

Subject: Whatcom County 10-Year Review of Urban Growth Areas  
City of Nooksack Response to Executive's Recommendation

County Council and Planning Commission members:

The City of Nooksack has reviewed the County Executive's Recommendation regarding Urban Growth Areas (UGAs) dated August 17, 2009 and submits the following response for your consideration. Overall, it appears that the Executive has worked hard to try to balance the various factors that must be considered when sizing urban growth areas. Among others, these factors include: providing sufficient land within UGAs to accommodate anticipated growth, conserving resource lands, safeguarding against sprawl, not unintentionally directing growth into rural and resource areas, and respecting the goals and visions developed by individual cities. Specific to the City of Nooksack, there are some aspects of the Executive's Recommendation that the City either supports or at least recognizes as being well-conceived, and there are a few aspects that we urge you to consider adjusting as you move forward to making your final decision regarding UGAs.

UGA Reduction and Conservation of Agricultural Land

The Executive's Recommendation would remove a large portion of the Nooksack UGA as currently designated. The area south of Breckenridge Creek would be removed while the northern portion of the UGA adjacent to Breckenridge Road would be retained. All of the area recommended to be removed is zoned for agriculture by the County and is in active agricultural production (berries and other crops). Some of this area is in the 100-year floodplain of the Sumas River. Conversely, the portion of the Nooksack UGA that the Executive would leave intact has rural zoning. In large part this area is on higher ground well above the floodplain. The UGA along Breckenridge Road has long been considered the most appropriate place for the City to expand because it includes the Nooksack Elementary School, which receives City water, and the Nooksack Cemetery. Based on the goals of trying to conserve the agricultural land base and directing growth out of floodplain areas, the City of Nooksack supports the Executive's recommendation to remove the best agricultural land from the UGA while retaining the natural high ground best suited to future urban expansion. However, the recommended reductions to the Nooksack UGA call into question whether the remaining UGA has sufficient capacity to

accommodate likely growth over the next 20 years, both in terms of population and employment capacity. These concerns are discussed in more detail below.

#### No UGA Reserve

Unlike almost all of the other UGAs, the Executive's Recommendation does not include any area designated for Urban Growth Area Reserve. If UGA Reserves are seen as a valuable tool for the County with respect to most other jurisdictions, the City wonders why it has not been utilized in relation to the City of Nooksack as well. Part of the difficulty likely comes from the fact that except for the area recommended to be retained in the UGA, Nooksack is surrounded by agricultural zoning, floodplain, the City of Everson or the City of Everson UGA (south of S. Pass Road and east of State Route 9). Given this configuration, there is no readily available location for designation as UGA Reserve.

#### Swift Creek

As members of the Council and Planning Commission are well aware, results of recent studies by the U.S. Environmental Protection Agency (EPA) have identified elevated asbestos levels in the sediment deposited along the Sumas River that originates from the Swift Creek slide area. The City of Nooksack recognized this issue in its UGA Proposal submitted in June 2009 in which the City suggested that areas impacted by such sediment are not well-suited for urban residential development and, therefore, should be removed from the land capacity analysis. This type of treatment would be similar to how the County Land Capacity methodology removes other undevelopable areas like FEMA-designated floodways from the capacity analysis. The potential impacts of Swift Creek sediment on capacity are discussed in more detail below; however, the City of Nooksack would like to address concerns that some may have regarding including any additional area in the Nooksack UGA that might be impacted by Swift Creek sediment.

The Sumas River, in large measure, forms the eastern boundary of the city. Therefore, if the County were to propose that the City's UGA not incorporate any additional areas that include the Sumas River floodplain, that would imply one of two results: either 1) the City of Nooksack should not have any UGA at all, or 2) there should be a gap between the current City limits and a discontinuous UGA located east of the Sumas River floodplain. The City's conclusion regarding Swift Creek sediment is similar to that of the EPA and the County Health Department: namely, that areas potentially impacted by such sediments should be managed through implementation of appropriate land use controls that limit the use of such areas to reduce the likelihood of exposure of people to potentially hazardous materials. Fortunately, the width of the Sumas River floodplain through that portion of the Nooksack UGA recommended to be retained by the Executive is relatively narrow: approximately 100-250 feet. One example of how such a land use control might be implemented would be through the subdivision process. Under such a scenario land would remain undeveloped or in its current use until annexed and proposed for subdivision. As part of the subdivision approval process, the City could require that a restrictive covenant be recorded prohibiting potentially hazardous areas from being included in residential lots and further restricting recreational uses, such as pedestrian trails, that could increase chances of exposure to hazardous materials. The alternative of unilaterally barring any future expansion of the City of Nooksack is unacceptable to the City, and the alternative of creating a discontinuous UGA, although not untenable, would seem to be unnecessary given the fact that cities often

include potentially hazardous areas, such as floodways, where land use controls are utilized to protect the public welfare.

#### Small Strip of UGA along the Sumas River

One aspect of the Executive's Recommendation that was somewhat perplexing was the inclusion of a strip of UGA along the eastern boundary of the city that includes the Sumas River floodplain. The City's perspective is that if the County decides to remove the portion of the current UGA located south of Breckenridge Creek, then it would be inappropriate to retain the strip of UGA as shown in the Executive's Recommendation. In such a case the City would support removing the strip of UGA as well. Perhaps this strip of UGA was included to avoid limitations potentially affecting future UGA designations from the recently passed state law that prohibits the expansion of a UGA into certain floodplains. The strip of UGA as shown ranges in width from about 50 to 250 feet. It would seem unlikely that such an area could be annexed and developed in isolation from the remainder of the whole property. Removal of this area would reduce the Nooksack UGA by approximately 12 additional acres and would add about 8 acres of agriculturally zoned land back into resource protection status. Removal of this strip of UGA would also eliminate a large portion of the Nooksack UGA potentially impacted by Swift Creek sediment.

#### Residential Capacity

Generally speaking, the reduced population allocation provided to the City of Nooksack in the Executive's Recommendation is within the range of what is acceptable to the City. As presented in the Recommendation, population in the Nooksack UGA would increase by 944 from 2008 to 2029. The fact that the Nooksack UGA would include almost no surplus capacity and that no additional area has been designated as UGA Reserve makes it unclear how any additional growth anticipated between 2029 and 2031 would be accommodated. It is also important to note that over the past two years, while some parts of the County have experienced a dramatic slowing of growth, Nooksack has seen more rapid growth. Even if Nooksack receives no additional building permit applications this year, the official population for the City of Nooksack will increase by 146 from 2008 to 2010. This 2-year growth represents over 15% of the population growth allocated to Nooksack through 2029. Unfortunately, with no UGA Reserve identified, the City and the County have no clear direction as to how to adjust to higher than allocated growth rates should this pattern continue. What the City has seen over the past several years is continued strong demand for homes in the more affordable end of the market. This is what the City has been providing. The City recognizes that our continued ability to provide attractive residential opportunities that are also affordable is part of what helps slow growth in rural areas of the county. An adequate residential land supply is key to allowing this pattern to continue.

#### Swift Creek Sediment Area

The potential deficiency of the very limited surplus of developable residential land (2 acres) identified in the Executive's land capacity results is further underscored by the fact that the Executive failed to address the limitations on development posed by sediment from Swift Creek. In the City's UGA Proposal from this past June the City called attention to an area located inside of City limits that had received deposits of sediment from the major flood event of January 2009. Following the flood the City hired a surveyor to map the sedimentation area. Not including critical areas already excluded from the land capacity analysis by the County, the City estimated that this sedimentation area comprised approximately 18 acres located on the east side of Gillies

Road. If this 18-acre area were removed from the analysis as the City has suggested, then the County's own results would show that the Nooksack UGA would not contain sufficient land to accommodate the residential growth anticipated through 2029.

#### Land Capacity Overestimation.

The Executive's Recommendation acknowledges that there are some aspects of the County's land capacity methodology that will tend to overestimate capacity—such as an analysis based on the aggregation of parcels. This is a concern that the City raised in its UGA Proposal. In his Recommendation, the Executive goes further to suggest that certain other aspects of the methodology would tend to underestimate capacity, thereby compensating for the above overestimation. Such factors include: 1) No increase in capacity to account for accessory dwelling units (ADUs), and 2) No increase in capacity to account for the development of residential dwelling units above commercial businesses. Although the City of Nooksack agrees that the methodology does fail to incorporate measures to account for the above two possible contributions to residential capacity, in the case of Nooksack such counter-balancing factors would not apply to any meaningful extent. First of all, the City of Nooksack comprehensive plan and zoning ordinance do not currently make any provision for the development of ADUs. This is a local land use choice that fits with the character of the community; and it is the City's perspective that the County should not be in the business of dictating land use decisions to a city, especially if that city is meeting its density targets as expressed in the County comprehensive plan (as has been the case in Nooksack). Second, although the City zoning ordinance does allow residential units above commercial uses as a conditional use where such dwellings are accessory to the commercial use, Nooksack has not seen even one application for such a dwelling unit in the past ten years. Thus, the City's concerns regarding overestimation of residential capacity remain unresolved.

#### Employment Capacity

In addition to a large area planned for cluster residential development, the area recommended to be removed from the Nooksack UGA includes the only large parcel in the UGA that the City had designated for future industrial growth. Such a removal without an accompanying alternative designation will leave the City with almost no available industrial land base. The removal of this future industrial area also led the County to make a large reduction in the employment allocation for Nooksack. This will make it very unlikely that the City will be able to attract a new business that would provide a significant number of jobs for the local community. Unless the County chooses to reconsider the Executive's Recommendation and decides to retain all or part of the portion of the Nooksack UGA recommended for removal (possibly as UGA Reserve), it may be necessary at some point in the future to discuss restoring some of the employment base to Nooksack and adding some land for future industrial development.

#### Conclusion

In general, the City of Nooksack understands and supports the choice that the Executive made to recommend removing the best agricultural land from the Nooksack UGA while retaining the high ground along Breckenridge Road where the school and cemetery are located and where public water is available. As discussed above, there are a number of factors, including the very small surplus of residential acreage provided and the County's choice not to exclude the Swift Creek sediment area from the residential land capacity, that would lead to the conclusion that the Nooksack UGA, if reduced to the extent recommended by the Executive, will likely be

undersized to accommodate the amount of growth allocated through 2029. This is especially true in light of recent growth trends in Nooksack, where residential growth has increased while growth in the County in general has slowed. Finally, County decision-makers should also be concerned about this potential under-sizing if it leads to the unintended outcome of directing growth into rural and resource areas.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Rollin H. Harper', with a stylized flourish at the end.

Rollin H. Harper  
Nooksack City Planner