

COUNTY AND CITIES' PLANNERS GROUP

GROWTH MANAGEMENT TOOLS REPORT

I. PURPOSE

As Whatcom County and the cities within the county prepare their required 2016 Comprehensive Plan updates, the jurisdictions are coordinating to adopt population growth projections for Whatcom County's urban and non-urban areas. The purpose of this report is to identify and briefly discuss policy tools that can help direct growth to designated urban growth areas (UGA's) as planned. Directing growth to urban areas is consistent with the Growth Management Act's (GMA) Goal 1 "Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner."

Planning staff from the County, in coordination with planners from the seven cities, have prepared this assessment of a wide range of potential actions that may be taken either by the County, by cities, or by multiple jurisdictions in cooperation. The policy tools discussed in this report include tools listed in the County's 2009 Draft Environmental Impact Statement (DEIS)¹ as well as others identified by planning staff. Some tools in this report have already been implemented to some degree, while others have not. Some may have inherent challenges that limit their viability or effectiveness.

By compiling and briefly discussing various tools in this document, neither the planners nor the jurisdictions they represent are proposing or advocating any particular tool. Rather, this report is intended as a reference document for the jurisdictions' decision makers as they evaluate which tools are most appropriate. If there is agreement on which tools might be selected, a more in-depth study of those tools can be made.

II. BACKGROUND

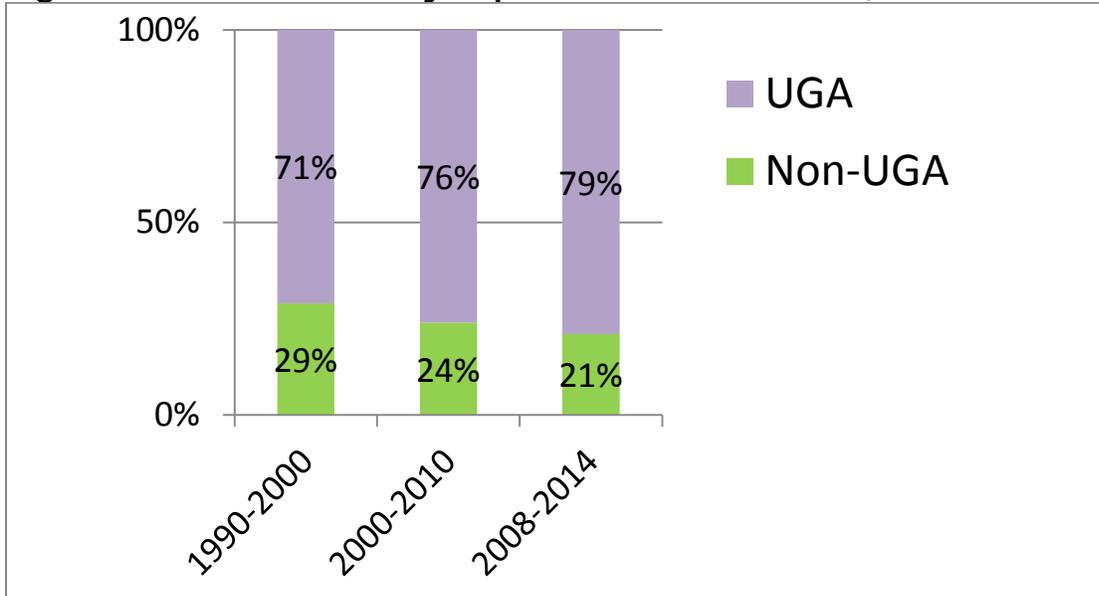
The current Whatcom County Comprehensive Plan projects that growth within UGAs will account for about 85% of countywide growth between 2008 and 2029.² Previous versions of the Plan allocated an even higher proportion of growth to the urban areas. However, as Figure 1 shows, over the past two decades less than 80% of countywide growth has occurred in UGAs.³

1 Whatcom County: Draft Environmental Impact Statement, 10-Year Urban Growth Area Review, May 2009, Tables 2-10 and 4.7-25.

2 [WCCP Chapter 1 Table 4](#). In the table, and in this report, "urban area" or "urban growth area" refers to the entire area within the UGA boundary, including both incorporated and unincorporated lands.

3 Berk and Associates: [Whatcom County Urban Growth Area Review: Background Research on Selected Economic, Demographic, and Housing Trends](#), November 8, 2013.

Figure 1: Whatcom County Population Growth Share, Urban and Non-Urban



Source: Berk 2013, 2014 OFM SAEP Estimates, WCPDS 2014 Growth Monitoring Report

The proportion of non-urban growth has fallen since the 1990’s and the County’s 2013 and 2014 growth monitoring reports estimated that non-urban population growth has been below the plan-allocated growth for those areas over the past six years.⁴ Still, it is important to consider policy tools that can better ensure that the majority of countywide growth takes place in urban areas as planned.

The tools discussed in this report fall into two major categories: tools to protect non-urban areas from growth that exceeds the amount allocated in the Comprehensive Plan, and those that could help encourage growth in urban areas and maximize the capacity of urban areas to accommodate growth:

Non-Urban Tools:

- Decreased Non-Urban Densities
- Rural Lot Consolidation
- Transfer of Development Rights/Density Transfer Credits
- Purchase of Development Rights
- Rezone of Rural Land Study Areas to Agricultural Lands
- Require Agriculture as a Primary Use and Limited Accessory Uses
- Agricultural Mitigation

⁴ PDS October 28 Countywide Population Growth Monitoring Report. While the non-urban growth totals were below the allocated 2,371 over the past six years, the share of growth going to non-urban areas is greater than the 15% growth share because many urban areas also had low growth during these years.

- Tools to Reduce Impacts on Agricultural and Rural Lands But Not Reduce Overall Density
- Permit Metering
- Water Well Limitations
- Impact Fees

Urban Tools:

- Increased Urban Densities
- Minimum Urban Densities
- Urban Mixed Use
- Utility Extension Policy
- Annexation Policy
- Mix of Single- and Multi-family Capacity
- Lot Size Averaging
- Land Value Taxation
- Fee Reduction Incentives

III. POTENTIAL TOOLS: NON-URBAN AREAS

Decreased Non-Urban Densities

This tool would increase the minimum lot size for new lots outside UGAs, allowing for fewer homes per acre.

In response to a Growth Management Hearings Board decision, Whatcom County rezoned about 6,000 acres in rural areas to less intensive uses or densities in 2011 and 2012, eliminating about 3,000 potential new lots.⁵ Also in response to the appeal, the County placed strict criteria on potential rezones from rural 10-acre lot size zone to rural 5-acre lot size.⁶ Through this process, the County has already significantly reduced the development potential in the rural areas.

Currently the County estimates a total of 13,011 existing vacant parcels and 19,020 total potential development rights in the non-urban area (see Figure 2).⁷ It is important to note that these figures are based on *tax parcels*, which are not necessarily legal, buildable lots. A number of the tax parcels in the rural and resource lands are not legal lots of record, or are subject to lot consolidation rules,

5 Whatcom County PDS: [LAMIRD Report, June 10, 2013 Appendices D and E](#)

6 GMHB Case No. 11-2-0010c: [November 21, 2013 Order Finding Compliance](#), p. 10.

7 Figures estimated by Whatcom County PDS in 2014 for the Comprehensive Plan Update DEIS. The 2009 DEIS estimated there were 18,489 existing vacant parcels and a total of 26,719 potential development rights in Whatcom County's rural and resource lands., p. 4.7-12. The change in the estimated development rights are due at least in part to the County's rural rezones of 2011 and 2012, which decreased the permitted densities in areas that did not meet criteria for designation as a Limited Area of More Intensive Rural Development (LAMIRD).

which would prevent building permits from being issued on those parcels (see discussion of lot consolidation below). Because legal lot status and lot consolidation determinations are typically done on an individual parcel basis and are often complex (legal lot and lot consolidation regulations are discussed below), the number of *buildable* lots in non-urban areas of the County cannot be precisely estimated without extensive study.

Figure 2. Non-Urban Vacant Parcels and Potential Development Rights

Location	Potentially Buildable Vacant Parcels	Additional Development Rights (Maximum Buildout)	Estimated Total Potential Development Rights
LAMIRD & Rural Nhd	4,117	543	4,660
Rural Study Area	725	1,162	1,887
Remaining Rural Zones	5,627	3,804	9,431
Subtotal Rural	10,469	5,509	15,978
Agriculture Zone	1,756	124	1,880
Rural Forestry Zone	786	376	1,162
Subtotal Resource	2,542	500	3,042
Total Non-Urban	13,011	6,009	19,020

Source: Whatcom County PDS, Assessor GIS data, 2014

Even if parcels affected by lot consolidation or legal lot of record determinations were excluded, it is clear the number of potential dwelling units in the non-urban areas is larger than needed to accommodate the population growth allocated to those areas in the current County Comprehensive Plan and the March 2014 multijurisdictional resolution⁸ allocations over a 20-year planning period. The Whatcom County Comprehensive Plan acknowledges this, and Policy 2DD-1 commits the County to monitoring non-urban growth and taking action if it exceeds the growth allocated to the non-urban areas. This approach was found to be in compliance with GMA by both the Growth Management Hearings Board and the Court of Appeals.⁹ Policy 2DD-1 calls for the County to “coordinate with the cities to ensure that policies are in place that are consistent with encouraging growth in the urban areas and reducing demand for development in rural areas” as part of the UGA review process. (This report is an example of that coordination.)

Rural and Resource Land Lot Consolidation

Under this tool, adjacent lots owned by the same owner not meeting certain zoning

⁸ [Whatcom County Resolution 2014-013](#), March 11, 2014

⁹ GMHB Case No. 11-2-0010c: [January 4, 2013 Compliance Order](#), p. 29; Court of Appeals No. 71739-1-I, [June 30, 2014 unpublished opinion](#).

code criteria are required to be consolidated into one for purposes of use, sale, or transfer. This tool is already in use, though it could be strengthened and clarified through County zoning code amendments.

Whatcom County Code 20.83.070 considers adjacent nonconforming lots in the same ownership to be consolidated as one lot for the purpose of use or sale, subject to a complex set of criteria and exemptions. This reduces the number of potential dwelling units from the total given above. In general, determinations of whether lots are subject to the lot consolidation rule is done on a case-by-case basis when permits are applied for, and there is no estimate of how many parcels are unbuildable because of this rule.

Similarly, there is no estimate of how many non-urban parcels are not legal lots of record (i.e. not created legally per subdivision or zoning regulations), as the legal status of lots is also determined only on a case-by-case basis. Historically (and currently) the Assessor's office has allowed property owners to create a new tax parcel regardless of conformance with development regulations. County Code also has provisions to protect "innocent purchasers" who unknowingly buy a parcel that may have been considered unbuildable under the previous ownership. Revision of County regulations on what constitutes a legal, buildable lot could, to some extent, reduce the development potential in the non-urban areas, and provide greater clarity to property owners.

Transfer of Development Rights (TDR); Density Transfer Credits

A TDR program relocates development potential from one property to another. Transferring these rights generally allows the owner of the receiving site to build at a higher density or height than ordinarily permitted by the base zoning, while removing development rights from an area to be protected. Density Transfer Credits are a variation of TDR in that developers obtain additional development rights by paying into a development rights acquisition fund, rather than transferring specific development rights. TDR programs are voluntary and can be successful in jurisdictions where the economic and regulatory environment favors retiring development rights in a sending area in exchange for gaining development rights in a receiving area.

Whatcom County has had a TDR program in place since the late 1990's to transfer development rights out of the Lake Whatcom Watershed, but it has rarely been used. The City of Bellingham, in cooperation with the County, has required a transfer of development rights out of the watershed at the rate of one development right per five acres developed in the King Mountain annexation area. The City also offers a "fee-in-lieu" program, giving developers the option to obtain higher densities in exchange for paying into the Lake Whatcom Watershed Property Acquisition Program, but so far that tool has not been used. The County also has a provision for transferring rights from a designated sending area in conjunction with a UGA expansion, though that has not been used.

In 2009 the City of Bellingham commissioned a consultant to prepare a feasibility analysis for TDR in potential annexation areas.¹⁰ The analysis concluded, "A TDR program isn't likely to be successful in the annexation areas given current densities and economic conditions." The study suggested one action that could be taken to change these conditions would be to lower base densities in the potential annexation areas (i.e. to downzone the TDR receiving area), which would likely increase the market demand for development rights. The study further notes that:

Most developers are skeptical about the value of TDRs primarily because of uncertainty about exactly how it would work and whether higher density projects could ultimately be approved. Equally important, new subdivisions are being developed at densities below the based densities under current zoning. Developers are forgoing development rights they are already entitled to; they are not likely to pay for additional rights.

This assessment is consistent with a more recent study of TDR programs nationwide. The TDR Handbook (2012) describes similar problems in other jurisdictions, when communities have set the base density cap – often referred to as the "threshold" – at a level higher than the market supports. The book notes simply, "Without demand for additional density, no TDRs will be purchased and no properties will be preserved." While pointing to successful TDR programs in Seattle and San Francisco where density thresholds were reduced, thus creating a demand for bonuses through TDR, the authors noted that other communities "report aggressive political opposition to reducing density thresholds, making many TDR programs mostly ineffective."¹¹

Though TDR programs have not yet been successful in Whatcom County, a multijurisdictional task force could work to identify ways to create a regional program that would successfully harness market forces across several jurisdictions.

Purchase of Development Rights (PDR)

A PDR program purchases and retires development rights, usually to preserve farmland or environmentally sensitive areas. Purchase of rights can be done either through non-development agreements on private land, or through purchasing the land outright.

Both types of programs are currently in use. The County's ten-year-old PDR program has purchased and retired 118 development rights on 826 acres of rural and agricultural zones at a total cost of \$5.7 million (about half coming from federal grant funds). The City of Bellingham has a program to purchase land and retire

¹⁰ Report and City memoranda on the report are available at the City of Bellingham web site, <http://www.cob.org/government/departments/pcd/transfer-development-rights.aspx>

¹¹ The TDR Handbook, Arthur C. Nelson, FAICP, Rick Pruetz, FAICP, and Doug Woodruff, RLA, Island Press, 2012, pp. 88-89.

development rights in the Lake Whatcom watershed. Since 2001 the City has purchased or protected 2,059 acres through the program at a cost of \$29.7 million, removing 782 potential units from development.¹²

The primary limitation of purchasing programs is the high cost, including the cost of administering a program as well as the acquisition costs. While the County's PDR program has been successful, it is limited in scale. The cost to purchase all remaining development rights in the agricultural and rural study area lands would far exceed the County's fiscal ability. The County is studying the feasibility of developing a PDR reverse auction strategy that seeks to create a market for PDRs at lower costs.

Identifying funding sources other than general funds would also help PDR programs achieve greater success. The City of Bellingham funds its Lake Whatcom Watershed Property Acquisition Program through a surcharge on water usage. One revenue source used by some jurisdictions elsewhere is a Density Transfer Charge, an alternative form of TDR program whereby a developer would pay cash to receive higher densities and the cash is used to purchase development rights in "sending" areas.¹³

The 2014 multijurisdictional resolution states the County's intention that any request to expand a UGA include a proposal for transfer or purchase of development rights when annexation occurs. As the cities submit their UGA boundary proposals later this year, it may be advisable to study whether any PDR or TDR requirements would have the effect of increasing development costs in a way that would be counter to encouraging urban growth or making housing more affordable.

Rezone of Rural Land Study Areas to Agricultural Lands

In the County's 2007 Rural Land Study, the County identified 21,000 acres of rural-zoned land as Rural Study Areas. These are areas that, though zoned Rural, have a high potential for being productive agricultural land. The County's Agricultural Advisory Committee is currently evaluating options for rezoning the land to Agriculture (GMA designation of Agricultural Lands of Long-Term Commercial Significance). This could take the form of rezoning to Agricultural zoning to reduce the allowed uses while retaining the existing densities (1 dwelling unit per 5 or 10 acres), rezoning areas to Agriculture zoning with or without compensation for lost development potential, or rezoning larger parcels to lower densities with or without compensation to owners for lost development rights through an enhanced PDR or new TDR program. There are an estimated 1,877 potential new dwellings in the 22,000 acre Rural Study area at current densities. If a density reduction option is

12 City of Bellingham web site <http://www.cob.org/services/environment/lake-whatcom/lw-property-acquisition-program.aspx>

13 See The TDR Handbook, Chapter 5, Density Transfer Charges

used, it would have the effect of reducing the number of potential development rights.

Require Agriculture as a Primary Use and Limit Accessory Uses

With residential development as a “permitted” primary use, parcels in the County’s Agriculture zone can easily be converted to residential use. The County estimates there are currently 1,785 potential additional dwelling units possible in Agriculture zone. Under this tool, new residences associated with a primary agricultural use would still be permitted, though other residential development where there is not a primary agricultural use would be limited.

Revising the zoning code to make single family residence accessory to agricultural uses would require the County to define what constitutes a primary agricultural use (for example, a minimum dollar amount of agricultural income generated) and confirm that a parcel complies with that definition before a residential building permit is issued.¹⁴ It would also require a means of ensuring (through monitoring, enforcement, or deed restrictions) that agriculture remains the primary use after the dwelling unit is constructed.

Agricultural Mitigation

Under this tool, farmland could be protected similar to the protection of critical areas. Avoidance of converting prime farmland to non-farm uses would be the preferred alternative, with mitigation required for situations where this is not possible. Such a program could require payments into a mitigation fund (which can be directed toward the PDR program), or require replacement of converted agricultural land (for example, two acres of Rural zoned land rezoned to Agriculture for every acre of agricultural land converted to non-farm uses). Agricultural mitigation programs have been used in some jurisdictions in California.¹⁵ This tool is currently under review by the County’s Agricultural Advisory Committee, though agricultural mitigation may be more applicable in more urbanized counties, in conjunction with “no net loss” policies. Such a program could require additional study as well as resources for development and implementation.

¹⁴ This is done in Skagit County (Skagit County Code 14.16.400), although that county sets the minimum dollar amount of agricultural income quite low – only \$3,500 over a five year period.

¹⁵ Davis, CA Municipal Code [Sec. 40A.03.025](#) - Agricultural land mitigation requirements; Stanislaus County, CA [Farmland Mitigation Program Guidelines](#); Yolo County, CA [Farmland Mitigation Principles](#).

Tools to Reduce Impacts on Agricultural and Rural Lands but Not Reduce Overall Density

Tools to reduce impacts to agricultural and rural lands include clustering, lot reconfiguration, and other development regulations. Clustering allows development on a limited portion of the land and reserves a large remainder for agricultural or other conservation uses. Lot reconfiguration is an option that would allow for clustering of development potential from one or more lots into a specified area of less agricultural value on another parcel or parcels. Development regulations could specify things such as maximum setbacks, maximum footprints, land and water conservation requirements, and other options that would lessen impacts on resource lands.

These options may reduce impact at a site, but are not designed to remove development potential from agricultural and rural lands. Because these tools do not affect the number of dwelling units permitted on rural and agriculture zoned lots, they would have no effect in reducing non-urban development potential.

The County currently requires clustering in its Agricultural Protection Overlay (APO) in the Rural zone. The County Planning Commission and Council recently considered revised lot configuration regulations in the agriculture zones but because they would facilitate the conversion of agricultural land to residential uses (which would compete with agriculture for water), the proposal was not adopted.

Permit Metering

This tool would limit the number of non-urban building permit applications accepted or issued in a given year. It could work similar to a moratorium, though moratoria are generally used on a temporary basis, and in reaction to an existing problem, rather than to prevent an anticipated future problem. Such limits have been used by some cities (notably in California) in response to very high demand for new housing. Research would be required as to how or whether such a program could be administered without creating an equity or constitutional “takings” issue.

Water well limitations

Limitations on water use (i.e. restrictions on drilling “exempt” wells and conservation measures) are typically tools for ensuring the supply of water rather than tools to limit growth. Such limitations may be useful and necessary where data indicate that limitations are needed to protect the water supply, but land use tools such as use and density regulations are a more direct means of directing growth to urban areas. Conservation measures for domestic water uses might also be considered – such as limits on house size, lawn size, and fixtures – to help ensure that sufficient water is available to protect endangered fisheries and for agricultural needs. However, conservation may have little effect on limiting non-urban growth.

This issue has been the subject of recent litigation. The County appealed a decision by the Growth Management Hearings Board that involved use of exempt wells in rural areas.¹⁶ The Court of Appeals found in favor of the County, observing that "...the Board appears to conclude that the County must make its own, separate determination of the availability of water in order to fulfil the requirements of the GMA. This conclusion is an erroneous interpretation of the law."¹⁷ However, long-term legal issues regarding water availability remain. Limited availability of water in the Nooksack Basin may serve to limit non-urban growth over time.

Impact Fees

GMA authorizes jurisdictions to collect impact fees so that "new growth and development pay a proportionate share of the cost of new facilities needed to serve new growth and development."¹⁸ GMA further states "authorization to collect and expend impact fees shall be contingent on the county...adopting or revising a comprehensive plan in compliance with [GMA Comprehensive Plans Mandatory Elements]..."¹⁹ Whatcom County Code 20.75 does establish school impact fees, but those are not collected because, at this writing, the County is not in compliance with the GMA. The Transportation chapter of the Whatcom County Comprehensive Plan was amended to include policies supporting transportation impact fees (TIFs) in 2009²⁰, and a study of possible TIF program was done, but TIFs were not implemented. The study proposed an average TIF of about \$1,800 for a single family home.²¹

Perceived lower development costs (in particular the lack of impact fees outside the cities) is sometimes seen as factor that encourages non-urban growth over urban growth. However, city impact and utility fees vary greatly and the development costs in non-urban areas can often raise the cost of non-urban development to that of developing in cities, or above. Figure 3 compiles figures from a recent City of Bellingham study²² that compares various development costs among some of Whatcom County's jurisdictions. The study compares costs and fees associated with developing a 2,500 square foot residence with a 400 square foot garage, and accounts for variations in costs of establishing water and sewer/septic service.

16 Growth Management Hearings Board Case No. 12-2-0013 [June 7, 2013 Final Decision and Order](#).

17 Court of Appeals Docket No. 70796-5-1, [February 23, 2015 Decision, p. 14](#).

18 [RCW 82.02.050\(1\)\(b\)](#)

19 [RCW 82.02.050\(c\)\(4\)](#)

20 Whatcom County Ordinance 2009-037.

21 The Transpo Group: "Whatcom County Transportation Impact Fee Program Study Report (Draft), May 2008

22 City of Bellingham: 2014 Comparative Fees Memorandum, February 20, 2015; data for Everson, Nooksack and Sumas from Sehome Planning.

Figure 3. Comparison of Development Costs, 2014								
	Bellingham	Blaine	Everson	Ferndale	Lynden	Nooksack	Sumas	County
Building Permits	\$ 2,554	\$ 3,425	\$ 2,773	\$ 3,344	\$ 3,049	\$ 3,086	\$ 3,127	\$ 4,037
Stormwater	994	283	-	600	-	-	555	-
Miscellaneous Fees	30	-	-	-	-	-	-	400
Park Impact Fee	4,808	1,000	1,200	1,289	936	-	-	-
School Impact Fee	1,854	-	-	1,100	-	-	-	-
Transportation Impact Fee	1,907	770	-	2,323	2,016	-	-	-
Fire Impact Fee*	-	-	-	-	517	-	-	-
Total Pmt/Impact Fees	\$ 12,147	\$ 5,478	\$ 3,973	\$ 8,656	\$ 6,518	\$ 3,086	\$ 3,682	\$ 4,437
Water - low	4,896	3,395	3,500	6,006	4,900	4,000	2,900	5,150
Water - high	4,896	3,395	3,500	6,343	4,900	4,000	2,900	12,150
Sewer/Septic - low	7,662	5,991	6,400	7,243	6,400	6,000	3,125	7,950
Sewer/Septic - high	7,662	7,897	6,400	8,337	11,170	6,000	3,125	20,950
Development Cost - Low	\$ 24,705	\$ 14,824	\$ 13,873	\$ 21,905	\$ 17,818	\$ 13,086	\$ 9,707	\$ 17,537
Development Cost - High	\$ 24,705	\$ 16,770	\$ 13,873	\$ 23,336	\$ 22,588	\$ 13,086	\$ 9,707	\$ 37,537

Note: Some impact fees are paid, at least in part, at the time of platting rather than building permit

*A \$995 FD 21 mitigation fee for Blaine and County applies only to plats subject to SEPA

Source: City of Bellingham and Sehome Planning, 2015

GMA authorizes collection of impact fees as a means of ensuring that public facilities keep pace with growth, rather than as a tool for deterring or redirecting growth. Even if impact fees were used as a deterrent, it is unclear whether it would be effective for that purpose, given the frequently high cost of non-urban development without impact fees and the relatively small amount that would be charged for a TIF in non-urban areas.

During the 2016 Comprehensive Plan update process the County can consider whether transportation impact fees would be a useful and appropriate tool for contributing towards needed transportation improvements. Each jurisdiction has the authority to set its own impact fees and utility hookup charges, however if there is consensus among jurisdictions that the wide variation in fees is problematic, they could initiate a coordinated effort to set these charges more consistently across the region.

IV. POTENTIAL TOOLS: URBAN AREAS

Increased Urban Densities

It is logical that increased densities in urban areas allow for the accommodation of more population growth. However, in established neighborhoods, concerns are often raised regarding potential impacts on neighborhood character and circulation, often making higher densities difficult to achieve.

Bellingham has adopted and implemented regulations that support increased urban densities in developed and developing neighborhoods. These programs include the "Infill Toolkit", bonus densities, an accessory dwelling unit ordinance, affordable housing program, design review process, and multi-family tax exemption program. Some of these programs have seen limited use in established neighborhoods, and the infill toolkit is not available in single-family zones. Bellingham is also initiating revisions of its subdivision code and accessory dwelling unit regulations, which are aimed at better facilitating infill.

Higher density doesn't always mean multi-story apartment buildings. For instance, there are higher-density options for single family housing, and accessory dwelling units. When coupled with effective design standards and incentives, located in appropriate areas, and based on a community's vision, higher densities can work well while providing needed growth capacity in urban areas. However, in many areas developers are choosing to develop below the maximum density permitted, and it is unclear whether increasing permitted maximum density will trigger developers to build to the higher density.

Minimum Urban Densities

In each residential zone, new developments would have to achieve a minimum number of dwelling units per acre to have an efficient development pattern meeting local visions. Establishing minimum densities is a way to avoid underdevelopment in urban areas. For example, multi-family zones could set a minimum density that prohibits single-family development.

Currently the County Comprehensive Plan Goal 2P sets goals for overall density of new residential development in the urban growth areas, but does not set minimums.

Urban Mixed Use

Mixed use is an example of flexible zoning where various land uses are combined within a single building, development, or district. For example, residential dwellings may be located vertically above retail stores, or located horizontally on the same

site as commercial uses. Mixed use communities can provide increased opportunities for transportation by bus, bike or foot, and have multiple financial, health, and environmental benefits, encouraging and supporting higher density development.

Bellingham, Blaine, and Ferndale each utilize mixed use zones currently, allowing residential uses in predominantly commercial zones, and vice versa. Development of urban villages and transit-oriented development are variations of this tool. Bellingham's Comprehensive Plan calls for development of several mixed use "urban villages." The City incentivizes development in these areas with programs and regulations such as transportation impact fee reductions, the multi-family tax exemption program, reduced parking requirements, flexible development regulations, density bonuses, and the affordable housing program. Downtown has seen significant commercial redevelopment and residential infill over the past 10 years and is on pace to continue for many years to come. Several urban village implementation activities are in Bellingham's 2015 work program for the Planning and Community Development Department, particularly for the Samish Way corridor, as well as the Old Town, Fairhaven, and Downtown subareas.

Utility Extension Policy

All cities in Whatcom County have policies prohibiting extension of city utilities into the unincorporated UGA area. In general, cities wish to create an incentive for property owners to support annexation. Once services have been provided there may be little perceived benefit to being annexed.

County-Wide Planning Policy F.4 states cities shall not extend water and sewer utilities without an adopted program for annexation and an adopted Capital Facilities Plan. An annexation prioritization plan can be useful in ensuring that utility extension is done in an orderly and affordable manner. The City of Ferndale has recently (2013) adopted an "Annexation Blueprint" document.²³ According to Ferndale staff, the intent of the document is:

"To give property owners increased certainty over what properties may be annexed in the near, mid, and long-term, to provide the City with better knowledge of the UGA prior to annexation, as well as to develop capital improvement plans that reflect (and are reflected by) actual growth patterns. Finally, the blueprint will enable staff to effectively respond to requests for annexations that are made prematurely."

Annexation Policy

Because the cities all have policies not to extend urban services outside city limits,

²³ City of Ferndale: "[Annexation Blueprint: Annexation Phasing Plan 2013-2034](#)" adopted March 18, 2013.

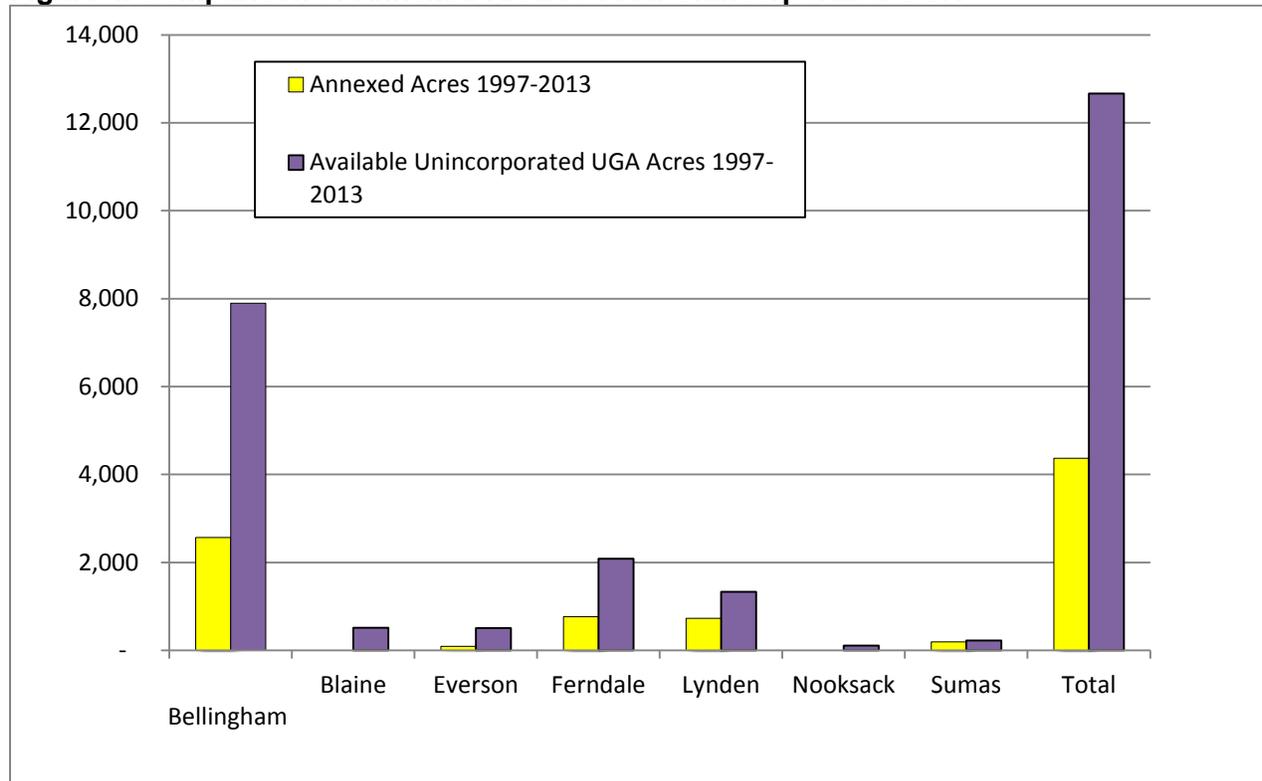
it is not possible to develop the unincorporated portions of the UGAs at urban densities. Therefore annexation is critical to realizing urban development in UGAs. There are several annexation methods available in Washington State and all have their challenges. Under most methods, property owners, not the cities, may initiate an annexation. In the relatively new and little-used “interlocal agreement” method a city may enter into an interlocal agreement with the county and affected fire districts to determine the new boundary and arrange for sharing of costs and revenues. This type of annexation is done without public initiation, but could be reversed by referendum if property owners gather enough signatures to bring the annexation to a vote.

The UGA boundaries established in Whatcom County’s 1997, 2005, and 2009 comprehensive plans were designed to accommodate 20 years of growth, per GMA requirements.²⁴ In the 17 years since Whatcom County adopted its 1997 comprehensive plan establishing permanent UGAs, the cities have annexed only about a third of the unincorporated UGA land available (see Figure 4). Not all of the remaining UGA land is available for residential development. Most of Bellingham’s remaining unincorporated UGA is planned for non-residential use (airport, industrial areas).

Despite having less land area for urban residential development than planned, the UGAs have generally accommodated population growth just slightly below their planned growth allocation. Figure 5 shows the annual growth allocated to the UGAs and non-urban areas in the 1997, 2005, and 2009 County Comprehensive Plans, compared with the estimated average annual population growth between 2000 and 2013. All the city UGAs saw less population growth than planned for, while the non-urban area saw more growth than it was allocated in the 2005 and 2009 plans. Annexation can increase the supply of land available for development at urban levels within existing UGA boundaries, possibly easing some development pressure in non-urban areas.

²⁴ [RCW 36.70A.110\(2\)](#). The 1997 and 2005 plans stated the UGA’s were sized to accommodate 150% of the anticipated growth. The 2009 update used a more modest “market factor” and reduced the size of some UGA’s accordingly. Thus the acreage of some UGA’s has fluctuated considerably. Chart 1 calculates the available unincorporated UGA acres by adding the unincorporated UGA acres in 2013 to the number of acres annexed since 1997.

Figure 4. Comparison of Annexed Area to Total Unincorporated UGA

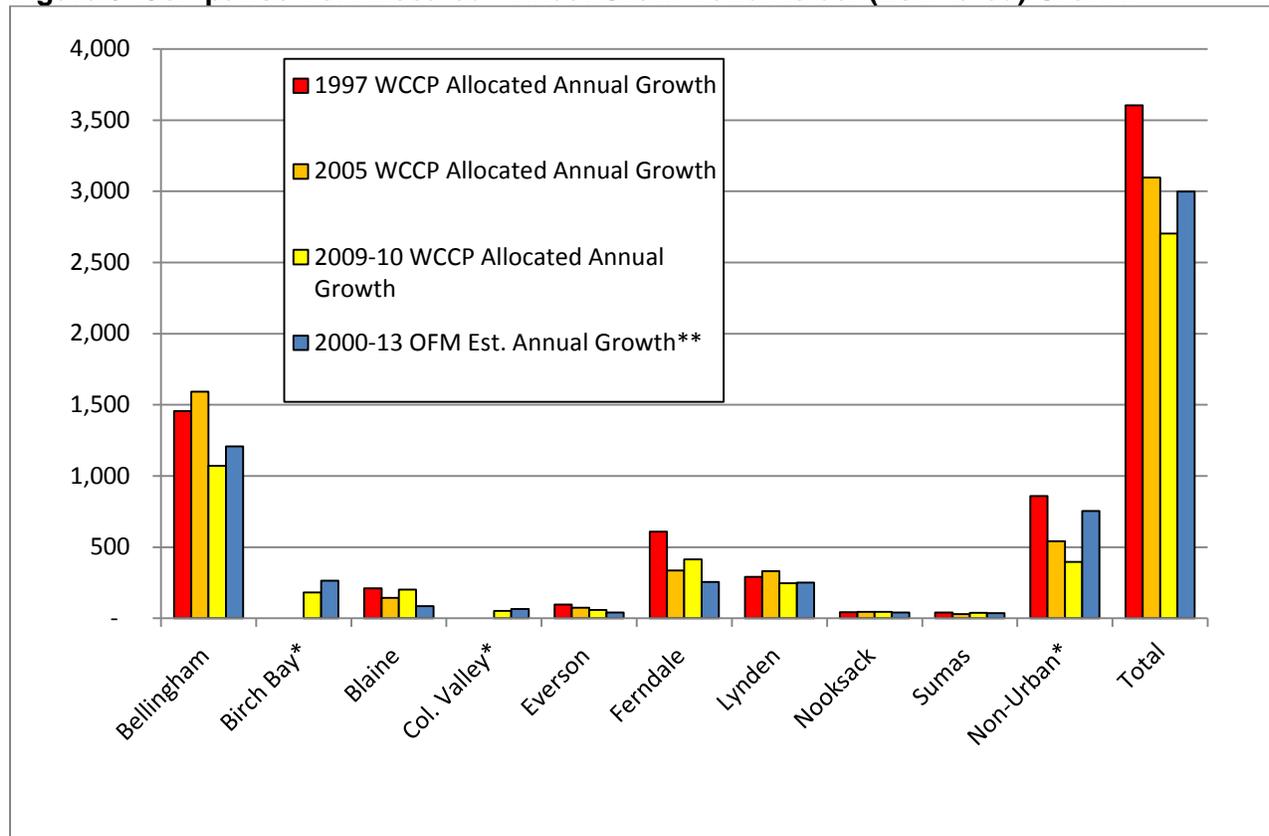


UGA	Annexed Acres 1997-2013	Remaining Unincorporated UGA 2013*	Available Unincorporated UGA Acres 1997-2013	% Annexed
Bellingham	2,572	5,323	7,895	32.6%
Blaine	-	512	512	0.0%
Everson	96	408	504	19.1%
Ferndale	770	1,316	2,086	36.9%
Lynden	731	604	1,335	54.8%
Nooksack	-	107	107	0.0%
Sumas	199	27	226	88.1%
Total	4,368	8,297	12,665	34.5%

*Current UGA gross acres are used to keep the geography constant. Several UGAs were larger in the 1997 and 2005 WCCP. Acreage figures include areas planned for residential as well as non-residential uses.

Source: Cities, Whatcom County GIS

Figure 5. Comparison of Allocated Annual Growth and Actual (Estimated) Growth



	1997 WCCP Allocated Annual Growth	2005 WCCP Allocated Annual Growth	2009-10 WCCP Allocated Annual Growth	2000-13 OFM Est. Annual Growth**
Bellingham	1,455	1,592	1,070	1,209
Birch Bay*	-	-	182	263
Blaine	212	144	202	85
Col. Valley*	-	-	51	65
Everson	96	75	58	40
Ferndale	608	336	414	256
Lynden	291	332	246	252
Nooksack	42	45	45	41
Sumas	42	31	38	37
Non-Urban*	859	542	395	755
Total	3,603	3,096	2,703	2,998

*1997 and 2005 Non-Urban allocations included Birch Bay and Columbia Valley UGA's

** OFM SAEP UGA estimates begin in 2000

Mix of Single and Multi-Family Capacity

Part of ensuring an adequate land supply to accommodate future growth is making sure there is a mix of different residential development options that generally matches demand. If one type of residential development is not available within a UGA – or is not available to the extent the market demands – then it may be more difficult for the UGA to fully accommodate its allocated population growth. Also, demand for that type of residential development could create greater development pressure in another UGA, or in adjacent non-urban areas.

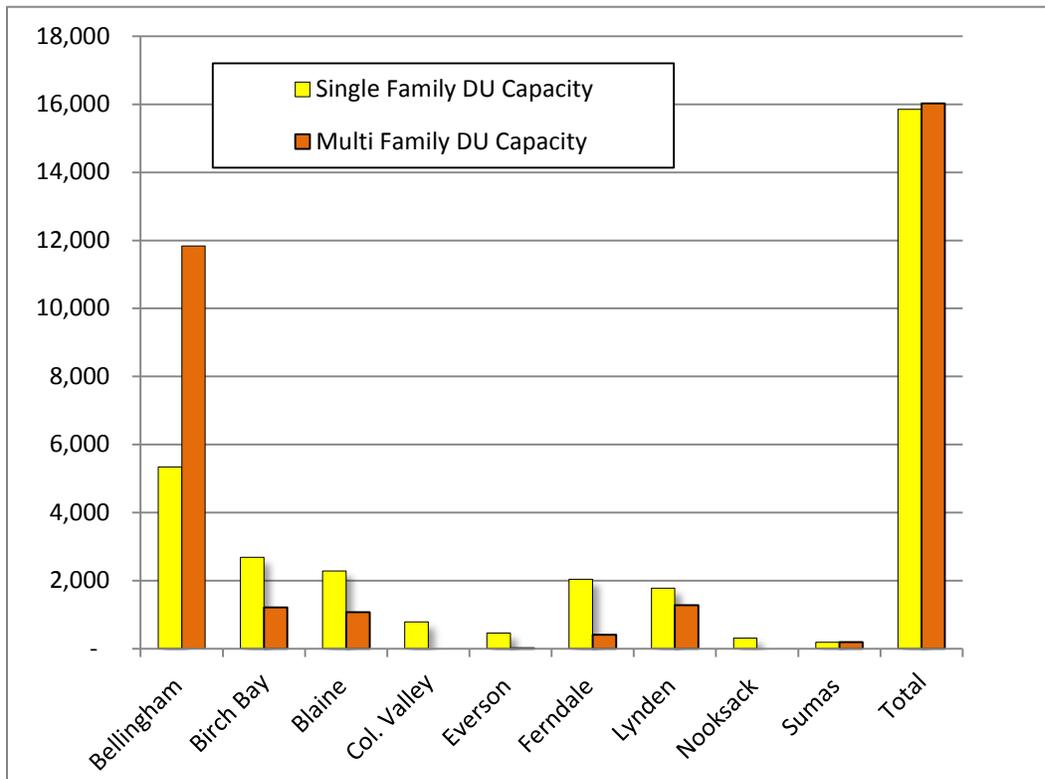
The current UGA land capacity analysis estimates that about half of the dwelling unit capacity is in single family zones (see Figure 6). Single family makes up the majority of dwelling unit capacity in all UGAs except Bellingham, where 69% of the capacity is estimated to be in multi-family units.

Comparing the estimated capacity with the actual dwelling units built between 2000 and 2013 (Figure 7), the proportion of multifamily units constructed is higher than the current multifamily capacity, particularly in Bellingham. It is not clear to what extent the built unit statistics mirror *demand* for the various types of housing, but it does appear that the currently estimated capacity accommodates a good variety of single- and multi-family units. However, much of the current single family capacity exists in the unincorporated UGA areas where, as discussed above, barriers to urban development exist because of the difficulties associated with annexation and utility extension. Addressing those barriers to development in the unincorporated UGA will be important to ensuring an adequate supply of single family development.

Bellingham has made a conscious policy choice to accommodate more new multifamily development than single family and a recent community survey supports that approach.²⁵ As with the impact fee issue, each jurisdiction has the authority to make its own policy choices, but if there is consensus among jurisdictions that a problem with the proportion of housing types exists, a coordinated effort to examine the multi- and single-family capacity across all the UGAs may be tried.

²⁵ See City of Bellingham Comprehensive Plan, Intro-14, F-2, LU-19, and [November 2014 Comprehensive Plan Update Survey Results](#).

Figure 6. Estimated Capacity for Single and Multi Family Dwelling Units

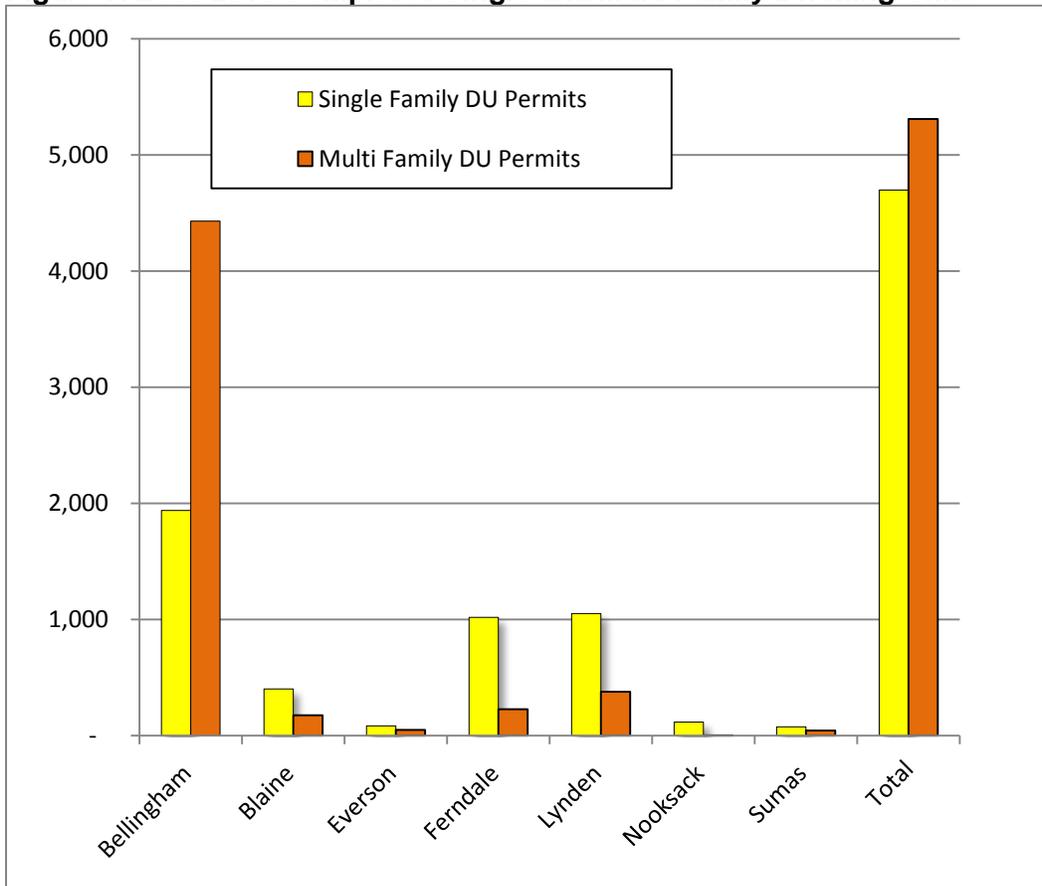


UGA	Single Family DU Capacity			% Single Family Capacity	Multi Family DU Capacity			% Multi Family Capacity
	City	Uninc.	Total		City	Uninc.	Total	
Bellingham	4,116	1,224	5,340	31.1%	11,505	333	11,838	68.9%
Birch Bay	-	2,681	2,681	68.9%	-	1,211	1,211	31.1%
Blaine	2,052	232	2,284	68.1%	424	648	1,072	31.9%
Col. Valley	-	784	784	100.0%	-	-	-	0.0%
Everson	280	174	454	96.0%	19	-	19	4.0%
Ferndale	936	1,103	2,039	83.2%	411	-	411	16.8%
Lynden	623	1,152	1,775	58.0%	512	771	1,283	42.0%
Nooksack	235	74	309	100.0%	-	-	-	0.0%
Sumas	183	-	183	48.8%	192	-	192	51.2%
Total	8,425	7,424	15,849	49.7%	13,063	2,963	16,026	50.3%

After subtraction for displaced units in nonresidential zones

Source: Whatcom County UGA Land Capacity Analysis as of January 29, 2015

Figure 7. 2000-2013 Completed Single and Multi Family Dwelling Units



UGA	Single Family DU Permits	% Single Family Permits	Multi Family DU Permits	% Multi Family Permits
Bellingham	1,941	30.5%	4,429	69.5%
Blaine	404	69.5%	177	30.5%
Everson	85	63.4%	49	36.6%
Ferndale	1,020	81.8%	227	18.2%
Lynden	1,053	73.5%	379	26.5%
Nooksack	118	98.3%	2	1.7%
Sumas	78	63.4%	45	36.6%
Total	4,699	47.0%	5,308	53.0%

*Cities only: completed units for minus demolitions; SF includes mobiles

Source: OFM 2014

Lot Size Averaging

This tool can provide flexibility in sizing lots in order to obtain planned densities. Minimum lot sizes could be lowered (and setbacks adjusted) so that some lots in a subdivision can be smaller, but the subdivision meets the same density requirements overall. Using lot size averaging, development can more efficiently use the buildable portion of a property. This increased efficiency can lead to a slight increase in residential capacity compared to the traditional minimum lot size requirements. Lynden has used lot size averaging for 10 years and Ferndale recently adopted a similar provision in its code.²⁶

Land Value Taxation

This taxation method involves taxing land value instead of (or at a much higher rate than) improvements. When property taxes for undeveloped land are the same or only slightly lower than for developed land, there is a disincentive for leaving land vacant. Land Value Taxation has been enacted in a few jurisdictions across the United States, and studies have shown it is effective in encouraging development in targeted urban areas.²⁷

However, land value taxation has not been used in Washington State and any attempt to enact it may see a constitutional challenge. The Washington State Constitution requires that all taxes “be uniform upon the same class of property within the territorial limits of the authority levying the tax...all real estate shall constitute one class.” The Constitution also prohibits “legislative action designed to shift to one group a disproportional burden of taxation by releasing or extinguishing by special statutes tax obligation of a favorite group.”²⁸ Thus, implementing a land value taxation system would likely require an amendment to the state constitution.

Offsite Mitigation Options

This method would allow landowners within UGAs to create offsite mitigation using critical area regulation procedures to mitigate UGA wetland impacts in the Non-UGA areas. The mitigation could occur within the same basins. This may serve to increase development potential within UGAs while preserving or creating open space in the non-urban areas. The interlocal agreements between the Cities and the County encourage establishing such programs.

²⁶ [Ferndale Municipal Code 18.32](#); [Lynden Municipal Code 18.14.095](#)

²⁷ Richard F. Dye and Richard W England, “[Assessing the Theory and Practice of Land Value Taxation](#)” Lincoln Institute of Land Policy, 2010; Josh Miller “[Land Value Tax: An Alternative to the Property Tax](#)” NAHB Eye on Housing, 2013.

²⁸ Washington State Constitution: Article 7, Section 1, and Article 2, Section 2(10).

Fee Reduction Incentives

Jurisdictions can incentivize development through a waiver or reduction in required development fees. Blaine has used this tool and Bellingham reduces impact fees for development in planned urban village areas. As stated in the above discussion of impact fees, jurisdictions could initiate a coordinated effort to set fees and incentives if there is a desire to attain greater consistency across the region.

VI. SUMMARY

As the 2009 DEIS noted, each tool has advantages and drawbacks, and no single tool can fully guarantee that population growth will occur as allocated in the Whatcom County Comprehensive Plan. Likewise, each jurisdiction has its own unique interests and policy objectives. Yet all the jurisdictions share a common interest in ensuring that growth occurs as planned over the next 20 years.

Many of the tools discussed above may best be approached from a regional standpoint. Issues such as TDR/PDR, impact fees, annexation/utility extension planning, and single-multifamily capacity can be coordinated. If the policymakers of the jurisdictions find a common interest in pursuing one or more of the tools discussed here, the planning staff for all the jurisdictions are prepared to coordinate and prepare policy options aimed at helping growth occur as planned.