

Association of Bellingham Citizens

Bellingham, Washington
BellinghamCitizens@gmail.com

May 12, 2015

Mr. Ali Taysi, Chairman
Bellingham Planning Commission
210 Lottie Street
Bellingham, WA 98225
Via Email: PlanningCommission@cob.org

cc via email: Bellingham Planning Commission
Bellingham City Council
Bellingham Mayor Kelli Linville
Bellingham Planning Director Rick Sepler
Bellingham Assistant Planning Director Greg Aucutt
Whatcom County Council
Whatcom County Senior Planner Matt Aamot

Re: *Non-Compliance with GMA Public Participation Requirements*

Dear Mr. Taysi:

It is with deep regret and sadness that we write to you regarding the Planning Commission's non-compliance with the *Growth Management Act (GMA)* with respect to the City's comprehensive plan update process. We feel compelled to ensure the record is both accurate and complete if - and when - a petition is filed with the *Growth Management Hearings Board (Board)* asserting non-compliance.

As you know, one of the key planning goals of the GMA is citizen participation. RCW36.70A.020(11) [Planning goals] states:

Citizen participation and coordination. Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts. (Emphasis added.)

And RCW 36.70A.140 [Comprehensive plans - Ensure public participation] states:

Each county and city that is required or chooses to plan under RCW 36.70A.040 shall establish and broadly disseminate to the public a public participation program identifying *procedures providing for early and continuous public participation* in the development and amendment of comprehensive land use plans and development regulations implementing such plans.

The procedures shall provide for broad dissemination of proposals and alternatives, opportunity for written comments, public meetings after effective notice, provision for *open discussion*, communication programs, information services, and *consideration of and response to public comments*. (Emphasis added.)

On April 25, 2015, Larry Horowitz, a member of the *Association of Bellingham Citizens* (ABC), wrote to you about his concern that the GMA requirements for public participation were not being fully satisfied in terms of the Planning Commission's recommendation for the City's *Population Growth Forecast*.

In his letter, Mr. Horowitz described the significance of the *Population Growth Forecast* and identified it as "the single most important decision of the entire comp plan update process," a decision that demands "the highest degree of public participation." Mr. Horowitz further indicated that "many of us feel strongly that our input has not received the appropriate level of attention."

In accordance with RCW 36.70A.140, Mr. Horowitz requested that the Planning Commission provide a venue for genuine open discussion and establish a *Comment Tracker* to substantiate that public comments have been considered and responded to.

Within the next few days, 14 additional members of the ABC (Mary Anne Rangel, Wendy Harris, David Camp, Dick Conoboy, Steve Abell, Jim Hansen, Steve James, Bernie Walz, Ray Ballweg, John McLaughlin, Mike Rostron, Anne Mackie, Christopher Grannis, and Joe Yaver) wrote to you confirming these concerns and reiterating these requests. These letters are included in *Public Comment Batches 8 and 9* on the City of Bellingham website at these links:

- **Batch 8:** <http://www.cob.org/documents/planning/comprehensive-plan/2016-public-comment/comments-batch8.pdf>
- **Batch 9:** <http://www.cob.org/documents/planning/comprehensive-plan/2016-public-comment/comments-batch9.pdf>

It has been more than two weeks since these requests were made. We had hoped the Planning Commission would acknowledge these requests at the May 7 work session, but the Planning Commission did not. It now seems clear that these public comment letters - which request the *consideration of and response to comments made by the public* - will themselves be ignored. If the situation wasn't so disheartening, we might appreciate the irony.

As we expected, the verbal comments made by members of the ABC during the May 7 work session were also generally ignored by members of the Planning Commission.

It has become clear that limiting public comments to three minutes does not allow the public adequate opportunity to provide substantive input, and preventing opportunities for real discussion and dialogue does not satisfy the GMA's requirements. Nor does the promise of workshops or forums later this summer - after the Planning Commission has made its population forecast and UGA recommendations

on June 11 - satisfy the GMA requirement for 'early and continuous public participation'.

We have copied the Whatcom County Council and Whatcom County Senior Planner Matt Aamot on this letter because the *Population Growth Forecast* and UGA boundaries ultimately adopted by City Council must be confirmed and utilized by the County in its own comprehensive plan. If a petition to the Board asserting non-compliance with GMA public participation requirements is successful, then, because the County's comprehensive plan incorporates this information, the County's plan is also at risk.

With this letter, members of the *Association of Bellingham Citizens* request, once again, that the Planning Commission comply with RCW 36.70A.140 of the GMA and provide a venue for genuine open discussion and establish a *Comment Tracker* to substantiate that public comments have been considered and responded to.

Mr. Taysi, we sincerely hope you and the members of the Planning Commission will seriously consider and respond to our request.

We can be reached via email at BellinghamCitizens@gmail.com, and we look forward to hearing from you.

Respectfully yours,

Ray Ballweg	Anne Mackie
Stoney Bird	Patrick McKee
John Brown	John McLaughlin
David Camp	Joanne Peterson
Dick Conoboy	Mary Anne Rangel
Bob Gibb	Mike Rostron
Christopher Grannis	Eric Scott
Jim Hansen	Tom Scott
Wendy Harris	Tris Shirley
Larry Horowitz	Bernie Walz
Frank James	Gaythia Weis
Steve James	Joe Yaver
John Lesow	

For the *Association of Bellingham Citizens*

Public Comment Tracker for the 2016 Bellingham Comprehensive Plan Update

Update		5/12/2015					Status and Comments by Staff (S), PC (P) or Council (C)
#	Date Received	Batch	By	Subject	Comments		
1	02/09/15	1	Wendy Harris	EIS	If the city proceeds with its 2016 comp plan update without a SEPA EIS, this could compromise GMA compliance. I request: 1) The SEPA DNS for the CAO be rescinded immediately. 2) The city delay enactment of revisions to the CAO and other comp plan provisions and regulations, including final population and employment figures, until the release of the county's final EIS; 3) The city produce an EIS specific to its 2016 comp plan process as it did for the 2006 comp plan review; 4) The city include a wildlife assessment and habitat review, performed by an experienced field biologist that relies upon the 1995 and 2003 review and recommendations from Nahkeeta Northwest.		
2	03/31/15	2	Tris Shirley	Growth Dialogue	The city should organize a public discussion on growth to address how we can mitigate the threats of rural sprawl.		
3	03/31/15	2	Tris Shirley	Population Growth Forecast	The city should select the lowest population growth forecast because it minimizes the risk of both under- and over-planning and because: 1) It is easier to expand a UGA than to shrink one; 2) Unwarranted expansion of a UGA is wasteful of scarce resources; 3) There is no 'most likely' selection among the several under consideration; 4) We intend to review the accuracy of our estimates every 5 years; 5) Actual expansion rates are often very different from those projected. If we can accommodate the number of people projected at the lowest rate for the next 20 years, we can certainly accommodate 5 years of population expansion at the highest rate, so there's no damage done if expansion is higher than the low rate, and the cost of expansion is minimized if growth is lower than the low rate.		
4	04/01/15	3	Larry Horowitz	Costs of Growth	Because higher growth creates more deficiencies, we need to adopt the lowest possible growth forecast to 'stop the bleeding' and provide breathing room to develop a realistic plan for growth that does not further deteriorate the City's finances.		
5	04/01/15	3	Larry Horowitz	Assn of Bellingham Citizens (ABC)	I-A3) Is it time to recognize that Bellingham cannot directly influence the growth rate in rural areas, and choose to focus on Bellingham's growth issues we can directly impact?		
				Agenda (continued)	I-A4) Recognizing that rural sprawl must be addressed by county officials, what growth forecast is best and most appropriate for Bellingham and its residents?		

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5	04/01/15	3	Larry Horowitz	Assn of Bellingham Citizens (ABC) Agenda (continued)	I-B4-5) The initial population allocation of 1,562 per year is 35% higher than the average over the past 14 years and 166% higher than the average over the past 7 years. Is 1,562 a reasonable forecast to adopt?	
					I-C2-3) Which population growth forecast provides the greatest degree of safety when dealing with tremendous uncertainty in the forecasts themselves? Which forecast provides the most flexibility without making irrevocable costly mistakes?	
					II) What is the true cost of development? Who should pay for the costs associated with population growth?	
					II-A) Is Bellingham's population growth model a Ponzi scheme where the first year revenues of new growth pays for costs associated with population growth from prior years? When population growth occurs, does Bellingham calculate the future costs associated with this growth and compare these costs with future revenues? Does Bellingham have a plan to pay for these shortfalls?	
					II-B) What is the value of the growth subsidy each new residential unit receives from existing taxpayers? Are these growth subsidies applied indiscriminately to every new unit? How can we reduce the growth subsidy? Can impact fee percentages be increased?	
					II-C) What is the percentage of the full proportionate share of the following growth costs paid by those who profit from growth? 1a) Roads & streets; 1b) Parks, open space and recreational facilities; 1c) School facilities; 1d) Fire protection facilities; 2a) Libraries; 2b) Museums; 2c) Jails; 2d) General government facilities; 2e) Police facilities; 2f) Solid waste disposal facilities; 2g) Water service facilities; 2h) Storm drainage systems?	
					II-D) What has been the impact of population growth on property taxes paid by existing residents? How do increases in property taxes compare with inflation and the consumer price index (CPI)?	
					IV-A1-2) What is Bellingham's true carrying capacity? What are Bellingham's limits to growth?	
					IV-A3) Is growth in Bellingham economic or uneconomic? (See chart)	
IV-A4) Can we have infinite growth in a finite space with finite resources?						

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5	04/01/15	3	Larry Horowitz	Assn of Bellingham Citizens (ABC) Agenda	IV-A5) Does the recommended growth forecast consider the City's carrying capacity and limits to growth and whether this growth will be economically beneficial or detrimental?	
					IV-A6-7) Should Bellingham incorporate carrying capacity-based growth constraints into our comprehensive plan and development regulations (as the State of Oregon requires)?	
					IV-A8) What is our end game? If we cannot grow forever, where do we stop?	
					IV-B1-2) What portion of Bellingham's growth is organic and naturally occurring? What portion is synthetic and created by advertising, promotion, and growth subsidies?	
					IV-B3-4) If we are truly concerned about growth consuming Whatcom County's agricultural and resource lands and sprawling onto rural lands - all problems caused by a growing population - wouldn't we be wise to stop promoting, advertising for, and subsidizing growth? Is it possible that we have met the enemy, and he is us?	
					V-A1-4) Has there been early and continuous public participation regarding the population growth forecast, as required by the GMA? Was there a broad dissemination of the proposals and alternatives surrounding the population growth forecast? Was there effective notice for public meetings? Has there been any open discussion about the population growth forecast? Does the growth forecast adoption process comply with RCW 36.70A.140?	
					V-B) Given that the Bellingham community agrees the most important problems facing the city are too much population growth and traffic congestion, and that Bellingham is growing too fast and losing its character, which population growth forecast most closely reflects community values? Does the population growth forecast reflect community values and comply with the GMA?	
6	04/02/15	4	Eric Scott	No Growth Forecast	The only responsible, sustainable growth 'forecast' is a no-growth forecast. Bellingham is full. Show us what Bellingham will look like in 100 years after a series of 30-40% population increases every 20 years. Show us where you will pack in that many people.	

Public Comment Tracker for the 2016 Bellingham Comprehensive Plan Update

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#	Date Received	Batch	By	Subject	Comments		
7	04/03/15	4	Sandra Alferts	Example of ill-conceived growth	Trickle Creek is a national example of how development should not happen around pipelines (and critical areas). How can we learn from present and past developments outside of the city and within? What are good and bad examples of development? How would we like to live? What makes living here great? How can we make it better?		
8	04/07/15	5	Mary Anne Rangel	Low growth forecast	When deciding the population growth forecast, the input and desires of the people who live, work and recreate in Bellingham should not be ignored as in the past. It is better to choose a low growth forecast because it is more flexible. We need to stop synthetic growth which has been created by advertising, promotion and subsidies. We must consider the carrying capacity of the air, land, and water resources.		
9	04/08/15	5	Christopher Grannis	Sustainability	Infinite growth in a finite environment is unsustainable. We should decide what we want a sustainable Bellingham to look like, when we want to achieve it, and then plan for the growth to reach it. Planning for anything but the minimum growth will guarantee a continued battle between neighborhood groups and the Planning Dept. Before a population forecast was chosen, Bellingham citizens should have been asked the question: Do you want to pay, with increased taxes, for growth that will degrade your environment, change your neighborhood character, decrease levels of service and otherwise harm your standard of living? The City should ask Citizens if they want their neighborhoods to absorb population increases, and if so how and how much. More growth in the City will increase demand for housing in the County; if Bellingham invites maximum growth, the result is expanding UGAs and increased pressure to develop outside the City.		

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#	Date Received	Batch	By	Subject	Comments		
10	04/09/15	5	Larry Horowitz	Is the GMA a suicide pact?	Asking whether to grow up or out is the wrong question. We need to ask whether growth - at this time and at this location - is beneficial or detrimental. Growth in the economy has outpaced the ecosystem's ability to support that growth. Unsupportable growth is not sustainable. It is not possible to address the planetary limits to growth if every locale, including Bellingham and Whatcom County, promotes, advertises for, and subsidizes more growth. The GMAs demand for endless growth is a suicide pact that requires us to act like mindless cancer cells. We need to have a more comprehensive and inclusive dialogue about growth, one that addresses the questions asked by Eben Fodor in this book BETTER NOT BIGGER. When will the City facilitate such a dialogue.		
11	04/10/15	5	Wendy Harris	Piecemealing the comp plan update	The CAO and Subdivision Ordinances must be part of the comp plan update process. The City should not favor certain stakeholders over others when crafting these ordinances. Both need to be incorporated into the public participation plan. The public has been deprived of its due process rights, including notice. The CAO was handled in an improper manner, but with the addition of the Subdivision Ordinance, this now has become a pattern. Please advise the public what other components of the comp plan update process the city intends to piecemeal out so that at least the city's notice obligation will be met.		
12	04/10/15	5	John McLaughlin	Population projections	There are problems with projections developed by BERK consultants and the 'allocated' projection provisionally adopted by Council. These are detailed in a 4/9/15 letter to Rick Sepler and a 3/2/14 letter to the County Council. Assistance in developing more credible and responsible projections has been offered from the commenter who has a Ph.D. in Population Biology from Stanford University.		
13	04/03/15	5	John Lesow	Population forecast	Cites Skagit County as a successful example of choosing a low population growth forecast and suggests that Whatcom County follow this example by taking the average of medium and low.		

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#	Date Received	Batch	By	Subject	Comments	Status and Comments by Staff (S), PC (P) or Council (C)
14	04/21/15	6	Association of Bellingham Citizens	Population forecast Power Point presentation	6 Population Growth Forecast Issues:	
					1) Will the Population Growth Forecast reflect the Community's vision, values and priorities?	
					2) Will the Population Growth Forecast be based on accurate data?	
					3) Will the Population Growth Forecast be sustainable and consider our carrying capacity and limits to growth?	
					4) How should we deal with uncertainty and risk?	
					5) Given that growth forecasts are self-fulfilling, what is the role of public policy?	
					6) Are taxpayers subsidizing growth they don't want	
					Evidence is provided that the Community's vision, values and priorities support the lowest population growth forecast.	
Evidence is provided that the historical population data used by BERK excludes data from 2010-2014. The up-to-date and accurate data show the population growth rate is in a 24 year downtrend. Of the 3 choices, the Low forecast provides the best fit with the data.						
15	04/25/15	8	Larry Horowitz	GMA requirements for citizen participation	The GMA requires the public participation plan to include a provision for open discussion and consider of & response to public comments. Neither of these requirements have been satisfied in terms of the city's adoption of the population growth forecast, the single most important decision in the comp plan update process that demands the highest degree of public participation. Requests are made to provide a venue for genuine open discussion and a Comment Tracker. Planning Commission members did not appear to consider or respond to key public comments, in particular the evidence that the historical population data being used is flawed.	
16	04/25/15	8	Mary Anne Rangel	GMA requirements for citizen participation	Provides support for claims made by Larry Horowitz (item 15) and reiterates request for a venue for genuine open discussion and a Comment Tracker.	
17	04/26/15	8	Wendy Harris	GMA requirements for citizen participation	Concerned that public comments about flawed population data are ignored by Planning Commission. Provides support for claims made by Larry Horowitz (item 15) and reiterates request for a venue for genuine open discussion and a Comment Tracker.	

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Update		5/12/2015				
#	Date Received	Batch	By	Subject	Comments	Status and Comments by Staff (S), PC (P) or Council (C)
18	04/26/15	8	David Camp	GMA requirements for citizen participation	Concerned that public comments about flawed population data are ignored by Planning Commission. Provides support for claims made by Larry Horowitz (item 15) and reiterates request for a venue for genuine open discussion and a Comment Tracker.	
19	04/26/15	8	Dick Conoboy	GMA requirements for citizen participation	Provides support for claims made by Larry Horowitz (item 15) and reiterates request for a venue for genuine open discussion and a Comment Tracker.	
20	04/26/15	8	Steve Abell	GMA requirements for citizen participation	Provides support for claims made by Larry Horowitz (item 15) and reiterates request for a venue for genuine open discussion and a Comment Tracker.	
21	04/26/15	8	Jim Hansen	GMA requirements for citizen participation	Provides support for claims made by Larry Horowitz (item 15) and reiterates request for a venue for genuine open discussion and a Comment Tracker. Recommends adopting the lowest population growth forecast.	
22	04/26/15	8	Steve James	GMA requirements for citizen participation	Provides support for claims made by Larry Horowitz (item 15) and reiterates request for a venue for genuine open discussion and a Comment Tracker.	
23	04/26/15	8	Bernie Walz	GMA requirements for citizen participation	Provides support for claims made by Larry Horowitz (item 15) and reiterates request for a venue for genuine open discussion and a Comment Tracker.	
24	04/27/15	8	Ray Ballweg	GMA requirements for citizen participation	The adoption of the population growth forecast should consider the low growth experienced in recent years. Supports request for open discussion and Comment Tracker.	
25	04/27/15	8	John McLaughlin	GMA requirements for citizen participation	Expresses concern about use of flawed projections provided by BERK Consulting, which contain serious conceptual and technical errors and cannot be used for responsible planning. Provides support for claims made by Larry Horowitz (item 15) and reiterates request for a venue for genuine open discussion and a Comment Tracker.	

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#	Date Received	Batch	By	Subject	Comments	Status and Comments by Staff (S), PC (P) or Council (C)
26	04/28/15	8	Mike Rostron	GMA requirements for citizen participation	Supports the low growth forecast. Provides support for claims made by Larry Horowitz (item 15) and reiterates request for a venue for genuine open discussion and a Comment Tracker.	
27	04/28/15	9	Anne Mackie	GMA requirements for citizen participation	Expresses concern that the March 17 Open House was not a discussion but rather "an opportunity to post sticky notes on the various 'topic' posters." Also states that engage.cob.org is not a face-to-face open dialogue during which we can share various points of view. The GMA requires a robust, inclusive dialogue that will gather diverse opinions. Concerned that the public has not been given enough time to prepare for the Subdivision Ordinance, Affordable Housing Initiative, and ADU Ordinance processes. Provides support for claims made by Larry Horowitz (item 15) and reiterates request for a venue for genuine open discussion and a Comment Tracker.	
28	04/29/15	9	Christopher Grannis	GMA requirements for citizen participation	Provides support for claims made by Larry Horowitz (item 15) and reiterates request for a venue for genuine open discussion and a Comment Tracker. Expresses concern about the process leading to the adoption of the Population Growth Forecast: lack of public participation; invalid way the growth forecast spectrum was determined; fact that majority of Planning Commission members are part of or close to the development community. Why wasn't community asked for input on the Population Growth Forecast? Why have the results of the 4 Resident Surveys been ignored? Planning Commission members have ignored all reasons given to recommend the low forecast. Suggests another survey and community dialogue that asks: "Should Bellingham continue to grow? If so, how much and by when?" No growth should be an option. Requests that Planning Commission members publicly disclose their ties to the development community.	
29	04/29/15	9	Joe Yaver	GMA requirements for citizen participation	Provides support for claims made by Larry Horowitz (item 15) and reiterates request for a venue for genuine open discussion and a Comment Tracker.	

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Update		5/12/2015				
#	Date Received	Batch	By	Subject	Comments	Status and Comments by Staff (S), PC (P) or Council (C)
30	05/01/15	10	Larry Horowitz	Graph of historical population data	Response to request by the Planning Dept for graph presented at 4/30/15 PC work session. The graph includes all historical data available from OFM (1968-2014) in contrast with charts provided to PC (1990-2010). Graph depicts 24 year downtrend in average annual population growth and supports adoption of Low Population Growth Forecast.	
31	05/01/15	10	Larry Horowitz	Response to Jack Petree's 4/30/15 memo	Identifies 7 inaccurate statements made by Jack Petree in his 4/30/15 memo.	
32	05/05/15	10	Larry Horowitz	PC Composition; GMA requirements	Expresses concern that 6 of 7 PC members (or spouses) are engaged in development related occupations, which places at risk of group bias. References various articles and an Oregon law (ORS 227.030) that addresses the need for the PC to represent the broader community.	
					Expresses concern that the process being following by the PC to adopt the Population Growth Forecast violates the GMA and is not consistent with the Land Capacity Analysis (LCA) Methodology established by the Dept of Commerce.	
					References GMHB cases that preclude a city from expanding its UGA unless it can prove in the Capital Facilities Plan that it can afford to provide urban services to the entire UGA over the 20 year planning period.	
					Reiterates the 4/25/15 request for a venue for genuine open discussion and a Comment Tracker before it's too late.	
					Requests the city to provide cob.org email addresses for PC members.	
33	05/06/15	11	Larry Horowitz	Flaws in 'Fiscal Benefits of Growth' memo	Identifies fatal flaws in the 'Fiscal Benefits of Growth' memo submitted by Public Policy Perspectives. Addresses the need to consider all growth-related costs, including the pre-paid costs associated with the consumption of existing infrastructure capacity by new development.	

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#	Date Received	Batch	By	Subject	Comments	Status and Comments by Staff (S), PC (P) or Council (C)
34	05/11/15	12	Larry Horowitz	Dept of Commerce UGA Guidebook / GMA requirements	Addresses GMA requirements involving: A) Consistency between UGA boundary and Capital Facilities Plan; B) Land Capacity Analysis (LCA) Methodology; C) Public Participation Requirements that are detailed in the Dept of Commerce UGA Guidebook.	
					Suggests the city should look to the future and determine what our ideal size is to prevent from overshooting our carrying capacity and limits to growth. Doing so will enable us to discern when we are about to hit those limits and will provide a feedback loop so we can take our collective foot off the growth accelerator to achieve a soft landing.	
					Warns against building local economy on an ever-expanding development and construction industry because we cannot have infinite growth in a finite space with finite resources. Growth will eventually stop, and there will be jobs lost in these industries. It's better to plan now for that eventuality to mitigate the consequences of severe job loss.	