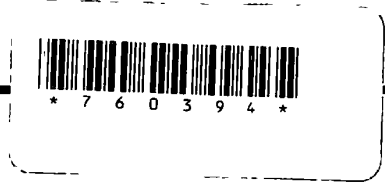


**Schroader, Kathy**

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**From:** Tilton, Rebecca  
**Sent:** Tuesday, February 09, 2016 11:23 AM  
**To:** Schroader, Kathy  
**Subject:** FW: Handout to Council for today  
**Attachments:** A Review and Assessment of Planning Assumption A.docx

Hello Kathy,

FYI - comments received from Heidi Owens at today's BOCC hearing

Thanks,  
Rebecca

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**From:** Heidi Owens [<mailto:heidi.owens@comcast.net>]  
**Sent:** Tuesday, February 09, 2016 9:33 AM  
**To:** Tilton, Rebecca  
**Cc:** Orjiako, Oliver; Boldt, Marc; McCauley, Mark  
**Subject:** Handout to Council for today

Hi Rebecca,

Attached is a copy of the handout I will give the council today. As my printer quality is off, I think it is better for you to have an electronic copy for the record than to scan a poor quality

Thank you!

Heidi Owens

A Review and Assessment of Planning Assumption A,  
as described by Councilor Madore in  
Exhibit A- Planning Assumption Choices Rev 1 09

By Heidi Owens, Ph.D  
February 9, 2016

On February 16, the County Councilors will hold a hearing to reconsider the Local Preferred Alternative for the 2016 Comp Plan approved on December 22, 2015. At issue will be the Rural Vacant Buildable Lands Model and Planning Assumptions first introduced by Mr. Madore on October 20<sup>th</sup>, 2015. While the invalidity of the Alternative 4B assumptions have been shown, and an inconsistency between the DSEIS and the Proposed B assumptions exists, there are still pressures to support Alternative 4B on the premise that no other valid model exists for the rural areas. This review seeks to provide information and support to the unmodified, original Rural Vacant Buildable Lands Model that was used for Alternatives 1-3 and is consistent with the current DSEIS.

#### **Background**

On October 20, 2015, Councilor Madore introduced new "proposed" assumptions for the Rural Vacant Buildable Lands Model (RVBLM) at the council hearing to review the Planning Commission's Sept. 17<sup>th</sup> recommendation for a preferred alternative for the 2016 Comp Plan. Rather than reviewing the Planning Commission's recommendation, Mr. Madore, as Chairman, focused the hearing on how the RVBLM got it wrong and that new planning assumptions and rural model assumptions should apply to any preferred alternative. Between Oct 20<sup>th</sup> and Nov 19<sup>th</sup>, a number of updates and revisions were made to these assumptions, staff weighed in on the validity of the assumptions, the public questioned their source and accuracy and spoke of the need to vet the assumptions, and the planning commission rejected them on Nov 19<sup>th</sup> and returned their Sept 17<sup>th</sup> recommendation to the council.

On Nov 23, one day before a Nov. 24<sup>th</sup> hearing to again look at the Planning Commission's recommendation, Mr. Madore posted the Local Preferred Alternative (LPA) which included a revised Alternative 4 based on his RVBLM Assumptions and revised Planning Assumptions. The council, with a 2-1 vote approved that LPA at the hearing despite much testimony raising the compliance issue with SEPA. Subsequently, the LPA's incompatibility with the Draft SEIS needed to be resolved before the FEIS was completed. Therefore, it was necessary for the county to vet these new VBLM and planning assumption. Councilor Madore quickly identified and obtained council approval to engage Thorpe & Associates to "Review the Planning Assumptions introduced on November 4, 2015 and provide professional opinion on the validity of these assumptions and whether they should be applied to the Vacant Buildable Lands Model for the rural lands."

On January 13, 2016, Thorpe & Associates staff presented their findings on the Land Use Assumptions and their application to the RVBLM. Four of the eight assumptions were found to be invalid, two

partially invalid; and two valid. Of the two valid assumptions,, Assumption 2 is already applied to the original VBLM used for Alternatives 1-3. Hence, the Council determined that it would be appropriate to reconsider the LPA at a hearing on Feb. 16, 2016.

This paper does not address the validity of the proposed B assumptions. That analysis is available from staff, this author, and now Thorpe. Rather, Mr. Madore has raised concern that by not accepting the proposed B assumptions, the council is saying the explanation of Column A assumptions is true, and that those have not been vetted.

### **Rural VBLM Assumptions**

Of the remaining seven RVBLM assumptions, Thorpe identified Assumptions 3, 4, 6, and 7 as invalid. This section will analyze the result of the Column A Assumption of those four assumptions deemed invalid by Thorpe (as they exist in the Rural VBLM that was used for the DSEIS). At the January 13<sup>th</sup> meeting, Mr. Madore stated his objections to Thorpe & Associates for not evaluating the validity of the column A assumptions. While the consultant was not tasked to do that, Mr. Madore insists that if B is not true, A must be true. A link between column A and B has not been established to warrant the use of "If NOT B THAN A" logic. One of the prior objections to the proposed RVBLM Assumptions was that they are not fact-based, but rather option and perceived value in upzoning the rural lands. Mr. Madore's wording of the Column A Assumptions for the RVBLM are equally worded to promote the perceived value of upzoning the rural areas, and examples will be italicized in the following subsections.

#### Assumption 3:

Assumption 3 speaks to the counting of environmentally constrained parcels, including those that are 100% environmentally constrained areas. It is important to note the environmental constraint overlay in GIS is very broad and does not provide specific detail regarding the specifics of the constraint without individual inspection. Therefore, even land that appears 100% environmentally constrained, according to the overlay, may in fact be buildable. In addition, CCC 40 450 010 (B) (4) (a) states that wetland protection standards shall not be used to preclude the placement of a single-family residence on an otherwise legally buildable lot. And CCC 40 440 020 (B) (1) (a) states that as long as habitat impacts are mitigate, the chapter shall not be used to prohibit placement of a single-family residence. Without visiting, studying, documenting, and tracking every environmental constraint on every parcel, the county has no way of knowing the impact or mitigation necessary to develop that property. Furthermore, both the Habitat [CCC 40 440.020 (B)(3)] and the Wetland [CCC 40.450 010 (B)(4)(c)] ordinances state "this chapter shall not be used to deny or reduce the number of lots of a proposed rural land division allowed under applicable zoning density." Therefore, the intent of counting all parcels regardless of environmental constraints (the result of Assumption 3A) is valid both in terms of the county code and the mechanics of the ability to develop these parcels.

*Perhaps the issue with Assumption 3A is the negative wording that implies that environmentally constrained lands cannot be developed when in fact they can and do develop. This council could certainly consider adding a code and a conservation overlay that enables for property owners to have their parcel evaluated and then excluded from the RVBLM based on environmental constraints, and then applying that code and overlay to a future Comp Plan. However, it is unclear if the expense is warranted given the availability of rural parcels for the 2016 Comp Plan Allocation.*

#### Assumption 4

Assumption 4 addresses what rate of parcel development should be applied to rural areas. *Like Assumption 3A, the wording of Assumption 4A is contrary. By making the connection to urban development patterns, Mr. Madore is implying that rural parcel counts must "divide to the maximum degree" to accommodate any growth to the rural area.* The GMA ensures much flexibility for counties to define their rural areas and allows for options such as clustering, density transfer, and conservation easements to achieve a variety of densities. And, as the Thorpe report indicates to assume equal develop patterns for Rural and Urban Areas is inconsistent. Understanding that GMA goals seek to promote growth in the Urban Areas, an Urban VBLM may apply a "never to convert" deduction, using historical rates of development, so as to ensure the housing stock is available to meet growth projections. The same reasons do not apply to the rural areas as RCW 36.70a 70 (c) requires that measures governing rural development seek to protect the rural character and contain or otherwise control rural development. Therefore, predicting the conversion rate of rural parcel development is not relevant for GMA purposes. What is relevant, for GMA consistency, is knowing the full degree of potential development for the rural area to ensure alignment with rural character as it defined

If the council wanted to study the rate of parcel development to determine a discount factor to use for a future Comp Plan that would be a policy decision. Without that policy, it is consistent and valid to count the potential conversion of all parcels

#### Assumption 6:

Assumption 6 focuses on nonconforming parcels, with 6A stating that county code prohibits most nonconforming parcels from developing. To look at this assumption, it is useful to understand how parcels becoming nonconforming. Any zoning change can result in legal and zoning compliant parcels/lots (that are not compatible with the new zoning) to become non-conforming, and, they are still legal lots that can and do develop. There are tax lots created on parcels for tax purposes to separate the tax liability for a particular parcel, however, these tax lots are not legal parcels for development purposes, regardless of their size or legal parcel zoning.

*The statement that "county code prohibits most nonconforming parcels from developing" in Assumption 6A is not true if one looks at legal parcels. Furthermore, the declarative portion of this assumption is problematic-- "all nonconforming parcels with 1 acre shall be counted as rural parcels that will develop"* One might question if "all" will develop; however they certainly may develop. As stated in the previous section for Assumption 4, GMA requires control over rural development, consistency with GMA goals, and furthermore, that rural growth is consistent with patterns of land use, defined in the rural element, WAC 365-196-425(3)(b)(x). Since all legal nonconforming parcels are potentially developable, it is valid for the RVBLM to count all legal, nonconforming rural parcels as done in the original rural model used for the DSEIS.

#### Assumption 7:

Assumption 7 looks at the use of a market factor in the rural areas. Assumption 7B subtracts a 7.5% market factor in the rural areas. Market factors are used to account for land that might not reach its potential use. They serve to suggest an increase or decrease in supply to reflect demand and

marketability WAC 395-196-310(2)(e) introduces the use of a market factor for sizing Urban Growth Areas and to account for land that is likely to remain undeveloped [WAC 395-196-310(3)(F)] so as to balance growth needs with housing costs

The rural element, WAC 395-425, makes no provision for sizing rural areas and instead focuses on use, densities, compatibility with the rural character, as defined by the county, and it includes maximizing the availability of rural land for either resource use or wildlife habitat, WAC 395-425(5)(a)(ii). Applying a market factor, as suggested in Assumption 7B, is inconsistent with the rural element, as there is not a provision for the need to market rural lands to accomplish GMA goals. In fact, the applicable goal for the Rural area would be the portion of RCW 36 70A.202 (8) that states "Encourage the conservation of productive forest lands and productive agricultural lands, and discourage incompatible uses," which is not conducive to rural land upzoning.

Not applying a Market Factor (the result of Assumption 7 A) to the rural area is valid. While there are reasons to promote affordable housing in the rural areas, this need is somewhat addressed by the RC-1 and RC-2 5 zoning districts. If this council believes more affordable housing is needed for the rural area, perhaps a mixed use zone for denser housing is warranted for a future comp plan. That would be a policy decision.

#### **Planning Assumptions**

The LPA passed on Nov 22<sup>nd</sup> by the council, used an 87.5/12.5 urban/rural split for forecasting the rural population growth. In the Thorpe & Associates report, analysis shows that the 90/10 growth project is accurate. This is the same growth projection that was consistently approved by the council in at least two resolutions: 2014-06-17 and 2015-04-05. There is more than enough adequate land supply in the rural area to support the 20 year growth projection approved by the council, including Mr. Madore and Mr. Mielke, in 2014 and 2015, and used by the County's Planning Staff to create Alternatives 1-3. Using valid, appropriate assumptions in the original VBLM for rural areas shows there is no need for rural upzoning to accommodate growth.

Given the tight deadline of June 30, 2016, and staff's limited time frame to complete the other GMA required elements, by April 2016, it seems prudent to use the original RVBLM information that is consistent with DSEIS. That means rejecting the revised planning assumptions used for the current LPA. Such action will allow the FEIS to be quickly completed and for staff to complete the process by the state mandated deadline.