



August 5, 2024

Marc Daily, Executive Director  
Allison Osterberg, Planning Manager  
Thurston Regional Planning Council  
2411 Chandler Court SW  
Olympia, WA 98502

### UGM Subcommittee – County-Wide Planning Policies for UGA Swaps

Dear Marc and Allison:

Our firm represents BAR Holdings, LLC., which is an applicant for a UGA swap in Thurston County. The proposal was affirmatively placed by the Board of County Commissioners on the 2024-2025 official docket (CPA-1) as the fourth priority project out of ten docketed items. The County is actively processing the application along with the 2025 Comprehensive Plan Update.

In December 2023, a members of BAR Holdings' consultant team (*Chis Carlson with Hatton Godot Pantier*) attended the UGM Subcommittee meeting to provide public input on "Draft" County-Wide Planning Policy (CWPP) 2.6 that was proposed to address the Legislature's establishment of a process for UGA 'swaps' in RCW 36.70A.130(3)(c)(i) - (viii)<sup>1</sup> that may only be considered during a county's periodic comprehensive plan update.

To that end, the TRPC staff report from December 20<sup>th</sup> made clear that a new Countywide Planning Policy **was** needed to maintain consistency between the CWPPs and state law:

*"Currently, the Countywide Planning Policies only allow for UGA boundary adjustments that expand or reduce the Urban Growth Boundary, not adjustments that change the boundary, but keep the total area the same. In October, Planning Directors proposed adding a new policy to the CWPPs to maintain consistency with the revised state law." Staff Report at page 3*

At the December 20<sup>th</sup> meeting, the UGM Subcommittee agreed with the BAR Holdings' representative that the draft language for Policy 2.6 (below) needed to be refined as the highlighted portion would seemingly only support swaps that involved precisely the amount of land added as removed, which is not part of the statutory criteria:

*Policy 2.6: Revision of the Urban Growth Boundary that is **neither an expansion nor a reduction** must demonstrate consistency with the requirements of RCW 36.70A130(3)(c) and consistency with these County-Wide Planning Policies.*

The matter was deferred to a future UGM Subcommittee meeting, which BAR Holdings understood would be in the February 2024 timeframe.

Subsequently, during the 2024 Legislative Session, the Legislature adopted Substitute Senate Bill 5834, which also addresses UGA swaps. This new legislation, codified in RCW 36.70A.110(8), established criteria by which UGA swaps could be considered during annual reviews of comprehensive plan amendments. The criteria for swaps considered during an annual amendment cycle (in .110) differ from those used for review of swaps proposed during periodic updates (in .130), intimating that the County needs to adopt two CWPPs for each situation to be consistent with state law.

It has come to our attention discussion of new UGA swap policies was not added to the UGM Subcommittee's August 19<sup>th</sup> agenda due to concerns about their being a difference between the two types of swaps and/or that there is not sufficient time for the UGM Subcommittee (or its Technical Advisory Committee) to craft and consider policy language to account for

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<sup>1</sup> Engrossed Substitute Senate Bill (ESSB) 5593 [2022]

both laws.

We disagree. First, as the original December 20<sup>th</sup> TRPC staff report indicated, the County has a duty to adopt Countywide Planning Policies that are consistent with state law. Thus, as state law changes, so must the Countywide Planning Policies. Historically, it has been the practice of most counties within Washington that plan under GMA (including Thurston County) to review and revise as necessary the CWPPs in advance of periodic updates to ensure the chain of consistency created with GMA is maintained – that comprehensive plans and development regulations are consistent with CWPPs and CWPPs are consistent with state law. Failure to fully update the CWPPs to be consistent with state law is problematic for establishing this fundamental requirement for consistency. Second, we note that the 2024 UGA swap legislation established the annual process criteria in RCW 36.70A.110 and RCW 36.70A.210(3)(b) specifically and directly mandates that the County’s CWPPs have policies to implement .110.

In sum, we believe it is the duty of the UGM Subcommittee and the County Board of County Commissioners to process amendments to make the County’s CWPPs consistent with state law.

We recognize that there may be opponents to BAR Holdings’ proposed UGA swap. That said, the BAR Holdings proposal is not presently before the UGM Subcommittee. What is needed at this time is for the UGM Subcommittee to adopt policies to be consistent with state law that allows UGA swap proposals to be considered. Separately and distinctly, the UGM Subcommittee will (in its future capacity under the CWPPs) review the BAR Holdings proposal or any other proposed UGA swap according to the review criteria established by the Legislature depending upon whether the proposal is brought forward as an annual amendment or concurrently with a periodic update.

We recognize that planning departments are busy with 2025 periodic updates. To expedite consideration and action, we offer the following draft UGA swap policies, and respectfully request that the UGM Subcommittee consider them at the August 19<sup>th</sup> meeting and forward them to the Board of County Commissioners for approval:

**Policy 2.5: Revision to an Urban Growth Boundary considered during a periodic update as established by RCW 36.70A.130(5)(b) proposing to swap land inside an urban growth boundary for land outside an urban growth boundary, must demonstrate consistency with the requirements of 36.70A.130(3)(c) and these County-Wide Planning Policies.**

**Policy 2.6: Revision to an Urban Growth Boundary considered as part of the County’s annual review in accordance with RCW 36.70A.130(2)(a) proposing to swap land inside an urban growth boundary for land outside an urban growth boundary, must demonstrate consistency with the requirements of RCW 36.70A.110(8) and these County-Wide Planning Policies.**

We appreciate your prompt consideration of our concerns.

Should you have any questions, or require clarifications or additional information, please do not hesitate to contact me at 425-322-5226 or [david@toyerstrategic.com](mailto:david@toyerstrategic.com).

Sincerely,



David Toyer  
President

CC:

Thurston County Board of County Commissioners  
TRPC UGM Subcommittee  
Ashley Arai, Interim CPED Director, Thurston County  
Vanessa Dolbee, Community Economic Development Director, City of Lacey  
Tim Smith, Interim Director, Community Planning and Development, City of Olympia  
Jim Gibson, City Planner, City of Rainier

Dan Penrose, SCJ Alliance, City Planner, City of Tenino  
Mike Matlock, Community Development Director, City of Tumwater  
Gary Cooper, Planning & Building Manager, City of Yelm  
Travis Burns, Thurston County Prosecuting Attorney's Office  
Heather Burgess, Dickson Frohlich Phillips Burgess PLLC, Counsel for BAR Holdings, Inc.