



Whatcom Chapter

July 3, 2008

Dennis Rhodes, Director
Planning and Building Department
City of Ferndale
2095 Main Street
Ferndale, WA 98248

RE: Two-Year Transportation Concurrency Proposal

Dear Mr. Rhodes:

I am writing on behalf of the Whatcom County chapter of Futurewise to endorse, support, and encourage the Ferndale City Council's recent unanimous directive to include a two-year transportation concurrency requirement in the City's draft interim transportation concurrency ordinance. We believe that this shorter concurrency limit will not only minimize expected traffic congestion, but will also help ensure that the true costs of new development are appropriately and immediately borne by the developers who bring about these costs.

As you know very well, Washington State law¹ sets an upper boundary of six years after project completion for a developer to provide the necessary transportation mitigation measures, provided that the necessary financial commitment for mitigation is in place at time of project completion. Futurewise Whatcom believes that this six-year upper limit is generally unwise and unnecessary. Such a lax general policy can result in a perpetual and unacceptable lag in transportation infrastructure, even if every new development follows the law scrupulously. With such a lag, the resulting traffic congestion shifts the burden and negative consequences of new development onto today's citizens. Ideally, projects with the most significant impact would implement mitigation efforts right away, with no lag at all. We believe that Ferndale's municipal government shows leadership by exercising its local discretion to implement a shorter yet still reasonable concurrency window.

Several observations and arguments support this smaller concurrency window. First, the two-year concurrency period is not a planning-and-building period, but only a building

¹ RCW 36.70A.070(6)(b)

period. The transportation mitigation planning should have occurred before and throughout planning and building for the project itself. Moreover, funding for these mitigation efforts will already be committed, as required by state law, using cost projections based on the detailed planning that should have already occurred. Given that the scope, nature, costs estimates, and funding for mitigation will already be in place at the time of project completion, it is reasonable to require that these mitigation efforts be finished within two years, if not sooner. A two-year upper limit is a legitimate requirement, serving a valid public purpose.

Second, local governments use a three-year funded projects list in their own infrastructure planning.² A shorter concurrency limit is, in a sense, simply asking private developers to observe a similar standard to which public development is held. Moreover, from a public planning perspective, it is far easier and more practical for the City to carry out its own public efforts if private transportation mitigation proceeds in a timely fashion. Public works projects need predictability and the ability to plan every bit as much as private developers, and a lag in transportation infrastructure of up to six years would be a significant and harmful burden.

As city staff have pointed out, many larger projects already trigger SEPA requirements or EIS filings, so that immediate concurrency is commonly a negotiated aspect of permitting. In other words, those projects with the largest mitigation requirements and which might, therefore, be the most affected by a shorter concurrency limit, in practice are likely to be unaffected. In most cases, the larger projects are already required to follow a stricter concurrency requirement. Moreover, for financing and bonding reasons, a period longer than two years may be unworkable and unrealistic.

The City Council discussed the possibility of providing for two kinds of exceptions: a longer window for small projects with minimal impacts and with less funding capacity, and an immediate concurrency requirement for large retail developments, under the proposed EAGLE retail development program. On first impression, these seem to be reasonable exceptions. The important point, however, is to establish an effective and appropriate default period for meeting the concurrency requirement. We support the two-year period being proposed, and would look favorably upon a shorter period as well, particularly for larger projects identified as having the greatest negative impact on levels of service.

One of the priorities of Futurewise is to advocate for public policies and investment that promote choices in transportation, to create communities where mass transit, bicycling, and walking are real options for people. In order to achieve this, communities such as

² The first three years of a Transportation Infrastructure Plan (TIP) consist of funded projects only; the next three years of the six-year period covered by a TIP consists of projects for which financing is uncertain or uncommitted.

Ferndale need to look beyond increasing roadway and intersection capacity as the only way or the best way to address traffic congestion. As a corollary, we believe that the mitigation efforts required under transportation concurrency must also look beyond roadways and intersections. Alternative forms of mitigation efforts must be included as part of a broader range of strategies. The GMA specifically states that concurrency strategies “may include increased public transportation service, ride sharing programs, demand management, and other transportation systems management strategies.” We urge Ferndale to explicitly acknowledge and encourage such alternative strategies for meeting concurrency requirements in its interim concurrency ordinance.

To reiterate: Futurewise Whatcom supports the Ferndale City Council’s decision to move forward with a two-year transportation concurrency limit. Furthermore, we support shorter concurrency requirements for those projects with the greatest expected impact. We believe that Ferndale is a model for other local governments to follow. We are pleased to see Ferndale taking a leadership role on this issue.

Thank you for this opportunity to provide supportive comments on the proposed transportation concurrency ordinance. We look forward to further smart growth initiatives from the City of Ferndale in the future. If you have any questions, please do contact either myself (at 392-8678) or Futurewise Whatcom’s chapter director, Cathy Lehman (224-8877).

Respectfully,

Michael Lilliquist

CC: Gary Jensen, Mayor of Ferndale
Ferndale City Council (Steve Malpezzi, Mel Hansen, Connie Faria, Paul Ingram,
Ken Downey, Lloyd Zimmerman, Keith Olson)
Rick Blair, Public Works Director