

NOTE: This copy of the letter to City Council includes supplemental notes that were not included in the original letter because of their technical level or amount of detail. The additional notes are intended to clarify the issues raised for the ECLA team or any future independent review. – Paul Conte (10/1/09)

September 24, 2009

Mayor Piercy and Eugene City Council
City Hall, 777 Pearl Street, Room 105
Eugene, OR 97401

RE: Eugene Comprehensive Lands Assessment (ECLA)

Dear Mayor and City Councilors:

This letter provides additional information from my perspective as a member of the ECLA Community Advisory Committee (CAC). After a brief update on issues raised in my August 12 letter, I explain how the ECLA analysis fails to provide the information necessary for two important Council responsibilities. I also describe serious data errors and omissions that would invalidate the residential lands assessment unless these problems are addressed.

I apologize in advance for the length of the letter. I've tried to be concise in describing each of the issues. However, the scope of ECLA is so broad, its implications are so major and the problems with the current analysis so extensive, that the issues require a lengthier treatment.

If your time is limited, I suggest you skim the sections below to appreciate the issues that have been raised and then read carefully the evidence presented in the "Erroneous ECLA redevelopment data" section. I think most of you will share my concern after you read this.

Finally, I've presented three recommendations that will provide a more thorough response to the issues raised.

Thank you in advance for taking the time to consider these comments.

Update on Council's HB 3337 decision

In my previous letter, I raised questions regarding the nature and impacts of Council's forthcoming decision on HB 3337. I recently had a conversation with the Assistant City Attorney who indicated Council will vote on "accepting" (rather than "approving") an assessment. While accepting the assessment would not make the assessment law, I would still urge councilors to thoroughly discuss the issue with the Assistant City Attorney at your work session to satisfy yourselves that you will have ample opportunity to revise the assessment's "baseline assumptions" subsequent to your action in December.

It's important to clearly resolve this issue for yourselves and the community. The ECLA team has continued to present public explanations that conflict with the information from the Assistant City Attorney. For example, the ECLA presentation to the Neighborhood Leaders Council (NLC) presented the project scope as *completing* determination of buildable land sufficiency by the end of 2009, and the presentation indicated subsequent work included *only* policy and/or UGB discussions (not further revision of the buildable land determination's assumptions).

The specific legal nature of Council’s December action with respect to HB 3337 seems at last to be getting cleared up. The motion adopted by Council requires at least a tentative timeline for revising ECLA and other actions following Council’s December action.

Because “accepting” a determination for HB 3337 is neither final nor binding, some of the ECLA deficiencies can be addressed after the HB 3337 action. The following table shows which issues need to be addressed for HB 3337 and which are necessary for Council’s other two responsibilities, as described below. Issues that don’t need to be addressed for HB 3337 can be deferred.

<i>Issue</i>	<i>HB 3337 Determination</i>	<i>Policy Decisions</i>	<i>Evaluate Code Impacts</i>
<i>Household financial capabilities and housing costs</i>		<i>Necessary</i>	
<i>Housing types and locations</i>		<i>Necessary</i>	<i>Necessary</i>
<i>Capture rate</i>	<i>Desirable</i>	<i>Necessary</i>	<i>Desirable</i>
<i>Underbuild rate</i>	<i>Desirable</i>	<i>Necessary</i>	<i>Necessary</i>
<i>(Valid) Redevelopment analysis</i>	<i>Necessary</i>	<i>Necessary</i>	<i>Necessary</i>
<i>Commercial and mixed-use analysis</i>	<i>Necessary</i>	<i>Necessary</i>	<i>Necessary</i>
<i>Fine-grained, multi-factor analysis</i>	<i>Necessary for some elements</i>	<i>Necessary for some elements</i>	<i>Necessary</i>
<i>Trackability</i>		<i>Desirable</i>	<i>Necessary</i>

ECLA requirements to support Council responsibilities

ECLA must be sufficient to support the following Council responsibilities:

- Comply with HB 3337, which requires Council to “complete the inventory, analysis and determination required under ORS 197.296 (3)”
- Revise Eugene’s land use policies and practices and/or the UGB to further our community’s vision for how we grow, as well as comply with State Planning Goal 10.
- Evaluate and defend (if necessary) land use code amendments based on Goal 10 needed housing requirements.

HB 3337 compliance

The first responsibility was the initial reason for ECLA. Essentially, meeting this responsibility requires conceptually simple final results: Estimates of the 20-year requirements (demand) and supply for buildable residential land. Obviously, the data and methods used to produce these two estimates must be credible. But otherwise, Council’s HB 3337 responsibility does not depend on the details of the underlying data or the structure of the analysis.

Determining land use policies

Council’s policy responsibilities, however, encompass much more than this simple determination of land sufficiency. If the buildable lands analysis determines there’s insufficient land, Council will be required to make policy and/or UGB adjustments. Beyond that, Council has an ongoing responsibility to shape effective policies that will lead to a livable and sustainable community.

The ability to model different “scenarios” is an essential tool for Council to determine sound policies. This modeling capability depends on accurate data about myriad factors that affect not just “land sufficiency,” but also determine the *qualitative nature* of the outcomes that alternative policies will produce.

For comparison, Portland uses a set of decision support tools, known as MetroScope, to evaluate outcomes from potential changes in economic, land use and transportation projections and policies within the region. This enables Metro-area governments to consider how their communities would look under different scenarios. For example, MetroScope was used to model five potential growth case studies covering a range of policy options. One of the interesting results was that scenarios where the Metro UGB was held tight pushed growth to Clark County, whereas a policy that allowed a larger UGB produced less proportional growth in Clark County. In addition, modeling different scenarios with MetroScope led to the conclusion that limiting expansion of the UGB would increase infill and redevelopment, but not enough to avoid shifting a share of growth to outside the UGB and that an associated effect would be to increase home prices.¹

¹ *2002-2022 Urban Growth Report: A Residential Land Need Analysis, page 12.*

Assessing land use code amendments

On a more prosaic level, State law requires that Council assess the impacts on buildable land supply for proposed amendments to the land use code. Council cannot legally adopt a code amendment that would cause the City to fall out of compliance with Goal 10 buildable lands requirements. This type of assessment requires a much finer-grained analysis than just an overall “land sufficiency” assessment. For example, if a code amendment deals with a single residential zone, a particular geographical area or a specific type of development (e.g., flag lots), an effective assessment requires that staff be able to look at what contribution to the overall projected supply was estimated for the smaller set of parcels affected by proposed code changes.²

ECLA inadequacies

Although the ECLA results to date have critical flaws, the overall structure is at least defensible as an approach to the HB 3337 requirement to determine whether there is a sufficiency of buildable residential land overall.

However, the ECLA structure is *not* adequate to support either of the other two Council responsibilities discussed above. The following sections provide a brief description of major ECLA deficiencies.

24

Inadequate use of household demographics and breakdown of housing types

Statewide Planning Goal 10 on Housing sets the foundation for planning for future housing:

To provide for the housing needs of citizens of the state.

Buildable lands for residential use shall be inventoried and plans shall encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density. ...

Thus, at minimum, Eugene should be considering the following factors in its housing plans:

- Household financial capabilities
- Housing price ranges and rent levels
- Housing types
- Housing locations
- Housing density

ECLA does not analyze household financial capabilities. Following the questionable practice accepted by the Department of Land Conservation and Development (DLCD), the ECLA analysis uses the historical mix of housing types as a “proxy” for factoring in housing “need” based on household financial capabilities. Implicitly, households with lesser financial capabilities

² In some cases, a simple straight-line extrapolation of overall estimates may be sufficient for this analysis. But there are many cases where such an analysis will significantly understate or overstate the potential affects.

are assumed to generally “need” apartments and manufactured homes, and households with greater financial capabilities are assumed to generally “need” single-family houses.

ECLA does not analyze housing prices and rental costs; and thus, for example, could not help Council take into account the impact on these two factors by certain policy changes.

In the ECLA team members have suggested data on other housing types is difficult to obtain. However, there is County data on size and appraised value of lots and dwellings, which could be used for the “small, detached dwelling” housing type, including ADUs. The WUN and SUNA neighborhood association has collected extensive data on the HOA housing type.

ECLA uses only a minimal set of housing types in its analysis:

- Single-family, detached
- Single-family, attached (e.g., condos)
- Duplex
- Apartments; with subcategories for: 3-4 units, 5-19 units and 20 or more units
- Manufactured homes

These shortcuts in ECLA cause the analysis to entirely miss such things as the documented desire for single-family homes, rather than apartments, by young families with children, regardless of household financial capabilities. In effect, the type of analysis reflected in ECLA (and typical Goal 10 assessments in other jurisdictions) says: “Historically, lower-income households have generally been able to afford only apartments, so that’s what they ‘need’; whereas higher-income households are the ones who could afford and therefore ‘need’ single-family homes.” Accepting such an analysis would lead Council to give little weight to policies that would help create lower-priced, single-family homes.³

Similarly, this incomplete approach to determining what the community really desires in housing, also overlooks the value of small “cottages” whether on their own individual small lots or in small “courtyard clusters.” These forms of housing are highly desirable to older residents who want to continue living independently in their same neighborhood, but “downsize” to a smaller dwelling with less land to maintain.

As these examples illustrate, ECLA does nothing to help Council or the community consider alternative forms of housing that could better meet our community’s goals for compact growth, housing affordability, livability and equity. Relying only on ECLA to forge new policies will just lead to false decisions, such as that more high-density apartments are the only means to achieve density, and that single-family homes will generally be available only to the upper ranges of household income.

Another missing housing type that Council and the community need to consider is what I’ll call “high-occupancy apartments.” Traditionally, most apartments were three bedrooms or less and generally occupied by a single person, a couple or a family. Over the past few years, however,

³ The point here is not about whether Council should adopt policies that lead to a higher proportion of multi-unit dwellings versus single-family dwellings. The point is that any shifts in the mix of housing types should fall equitably on households of all financial capabilities, not just lower-income households.

there has been a rapid increase in apartments with four or five bedrooms, occupied by unrelated individuals sharing the rent. These “high-occupancy apartments” are mostly found in the university area and rented by students. This housing type causes significant impacts on parking, transportation, relationships with other community residents and other aspects of the neighborhood areas in which they’re built. Yet ECLA provides nothing that can assist in planning for these (and other) new types of housing.

25 *Lack of a “capture rate” factor*

Capture rate is particularly important because of the split between Springfield and Eugene’s UGB area, since a condition in which Eugene policies held the same Eugene UGB or minimally expanded it while Springfield policies substantially expanded the Springfield UGB, would almost certainly shift demand to Springfield. (See Portland’s analysis re Clark County.)

As mentioned above, Portland’s buildable lands analysis includes a pivotal factor, known as the “capture rate.” This is the proportion of all new dwellings in the surrounding area that will be built within the UGB. In the Eugene-Springfield-Coburg-Veneta-Junction City-Creswell-Cottage Grove area, household decisions about where to live will be affected to a significant degree by Eugene’s housing-related policies. For example, policies that make housing more expensive or lower the appeal of urban neighborhoods will have a tendency to shift residential development to less expensive or more desirable areas. Any valid model of housing must include a “capture rate” factor that reflects the feedback cycle by which policies affect the locality of future housing demand.

ECLA, however, is a “static” model with no feedback element. Using the ECLA structure, if some “baseline assumption” is changed in a way that would increase projected demand, there’s no mechanism that accounts for the fact that this increased demand is likely to increase prices or rents and therefore lower Eugene’s “capture rate” and shift a portion of the increased demand to areas outside the UGB. This deficiency is no small matter. Portland’s analysis shows that changes in the “capture rate” can have a significant effect on land needs. This element is unavoidably an essential requirement for any “scenario” modeling that Council might use to consider different policy approaches to managing growth.⁴

26 *Lack of an “underbuild rate” factor*

ECLA uses current density rates in a way that produces an “underbuild effect.” For example, according to data in the August 10 memo Table B-2), average development density of large apartments (20+ units) in the R-3 zone was about 32% of the R-3 maximum density of 56 du/na. This is equivalent to an underbuild rate of about 68%. Thus, ECLA projects a very high underbuild rate in many of the medium- and high-density zones, thus substantially reducing the projected capacity for new dwellings in those zones. This underbuild rate is more than even the minimum net density in the R-3 zone (20 du/na), which would be equivalent to about 64% underbuild.

I more thorough analysis is necessary to have reasonable projections of underbuild rate, based on zoning and other land characteristics.

⁴ While the PSU projection for Lane County population growth allocates portions of the overall growth to individual cities, this is just a coarse guess that doesn’t attempt to reflect the shifts in proportional growth that would occur under different scenarios.

To estimate how many dwellings will be built on vacant or developed land requires first estimating the maximum capacity and then estimating the “underbuild rate.” If land with a particular zoning and similar physical features has a maximum capacity of 1000 dwellings and an underbuild rate of 20%, then the net estimate of future housing supply on this land would be 800 dwellings.⁵

Underbuild rates can be determined by examining historical development data, including independent variables such as plan designations, zoning, site topography, housing type, surrounding conditions (e.g., developed or vacant land), CCRs, etc., and the dependent variable of number of dwellings per acre.

Use of underbuild rates doesn’t provide a perfect prediction of how many dwellings will be built on a particular parcel, but can provide a much more defensible overall estimate than what ECLA provides. The only factor ECLA uses to make this type of adjustment to maximum capacity is housing type. But the mix of housing typed is itself a derivative projection (based on an analysis of historical data) and is unlikely to be adequate as the single predictive factor for determining an underbuild rate.

Note also that an underbuild rate provides a simple, effective means to take into account “infill” on vacant land, since surrounding context can be one of the factors in estimating the underbuild rate(s) for land within areas that are mostly developed (e.g., established residential neighborhoods).

27 *Lack of a valid approach to projecting redevelopment*

The ECLA team should avoid repeating prior misrepresentations of both the method and resources required to use an approach such as I suggest. In particular, the example I submitted to show how a simplistic approach to a “supply-side” projection was no harder than the simplistic “demand-side” analysis used in ECLA was clearly described as not being all that was required for a valid approach. Similarly, the ECLA team should explain why it hasn’t done a basic analysis of factors related to redevelopment to determine if there are empirical methods that would provide a superior basis for projecting future redevelopment and providing “trackability.”

ECLA should make available the detailed data (in addition to the summary data) on which the analysis of “redevelopment” is based.

Further, ECLA should comply with State statutes. ORS197.296(3)(a) requires the local government to inventory “redevelopable” (as defined by ORS) lands. As a practical matter, a local government cannot “inventory” redevelopable lands without specifically identifying tax lots at some point. Thus, a list should be reviewable and could (and should) be mapped, despite the fact that State law doesn’t require redevelopable lands to be mapped. If the ECLA team chooses not to produce this list, a public records request (which would be highly likely) would require the City to produce the data.

In simple terms, “redevelopment” is a change in the use, housing type(s) or number of dwellings on a previously developed parcel. Redevelopment can increase or decrease the number of dwellings. Redevelopment can also change the housing type of existing dwellings. ECLA models redevelopment by estimating a percentage of new dwellings that will occur through

⁵ Again, Portland provides a reference point for how this is done. See page 24 of the previously cited report.

redevelopment rather than on vacant land. (Inexplicably, ECLA ignores redevelopment that *reduces* the number of dwellings.) The resulting number of dwellings is then simply subtracted from the projected demand for new dwellings. There's nothing wrong with expressing historical data in terms of a ratio (or percentage) of "redevelopment" dwellings to total dwellings because both required numbers (total and "redeveloped" dwellings) can be determined.

However, it isn't valid to assume, as the ECLA team has done, that the same ratio will apply to future dwellings. This mistake is similar to assuming that because only five percent of car purchases in 2001-2008 were hybrids that five percent of all cars sold between 2010 and 2030 will be hybrids. The ECLA analysis compounded the error by applying redevelopment rates across the board to all housing types, densities, etc., despite the fact that even the historical data used by the ECLA team didn't show this type of distribution.

The rate of redevelopment is driven by a variety of factors, land availability and costs probably being the most important. Since the projection of redevelopment rates may be a very large "swing" factor in determining "land sufficiency" and may also be one of the most important areas which Council addresses in future policy decisions, the analytic approach to redevelopment requires thorough consideration. Basically, ECLA should use a similar approach to what has been recommended for determining "underbuild rates"; i.e., by analyzing multiple independent variables from the historical data on redevelopment.⁶

In the final section of this letter, I describe how the actual redevelopment data used by ECONorthwest is grossly incorrect. However, correcting the data will not fix the ECLA model of redevelopment, which uses an entirely invalid approach to projecting the assumed rate.

28

Lack of accounting for residential development in commercial and mixed-use areas

Residential development has occurred over many years in commercial and mixed-use areas, and these areas have a tremendous potential for additional residential development, especially in the urban core and especially in comparison to the potential gains from new "infill" within already established residential neighborhoods.

While State law related to Goal 10 buildable lands constrains a jurisdiction's inclusion of commercial land in estimates of residential land supply, that doesn't negate the necessity to include this category in local planning. The City can, for example, adopt policies that change plan designations and zoning or increase incentives (such as contemplated under the "Opportunity Siting" process) to justify projections for residential development on land not currently designated residential.

This omission was brought to the attention of the ECLA team by another member of the CAC and has yet to be addressed. According to an e-mail on September 15, ECONorthwest is "working on an analysis of residential development that located in commercial plan

⁶ In the July 8, 2009 Memo from ECONorthwest staff to the ECLA CAC, which was included in the AIS for Council's August 19, 2009 work session, ECONorthwest staff presented their description of my suggestions for an alternative approach to projecting redevelopment rates. This description was highly inaccurate, as ECONorthwest later acknowledged by revising the description in a subsequent memo to the CAC. As far as I'm aware, however, the ECLA team has not informed Council of the misstatements included in the AIS.

designations.” At this point, it’s impossible evaluate the adequacy of that analysis (or when the public will have a chance to review it).

29 *General lack of fine-grained, multiple-factor analysis*

In general, ECLA uses highly aggregated data and very simplistic approaches to projections, typically using only one or two factors when analyzing historical data. Such an approach may pass State scrutiny for HB 3337, and even Goal 10, but it’s not sufficient for Council to make sound decisions on policies to manage future growth to the benefit of our community.

Members of the CAC raised numerous concerns about the validity of the ECONorthwest approach to determining “baseline assumptions.” However, in general, the response by the ECLA team appeared to be mostly: “The HB 3337 deadline and the scope of the consultant’s contract don’t allow us to do a more thorough analysis.”⁷

While this rationale may be legitimate with respect to HB 3337 requirements and deadlines, it doesn’t negate the fact that ECLA in its current form is not an adequate foundation for our community to plan its future.

Eugene has an abundance of historical and other data about land characteristics and past development. These provide the *empirical* basis for a finer-grained, multiple factor analysis in a variety of areas, including those discussed above.

30 *Trackability and code amendment analysis*

This issue can be “tested” (or demonstrated) by using the proposed S-JW Special Area Zone as an example.

The March 30 memorandum from Emily Jerome regarding the issue of analyzing Goal 10 impacts didn’t address redevelopment. The pivotal problem with the current ECLA approach is that there is no reasonable way to apply a ratio of redevelopment-dwellings to total-dwellings to a specific area, such as that encompassed by the proposed S-JW zone. Mathematically, such a ratio can be applied only to a projection of total-dwellings or, with some simple math, to a projection of non-redevelopment dwelling. But if this approach were used, the result would be that areas with a lot of vacant, developable land would be projected to have the highest rate of redevelopment. This is generally counterintuitive. Basing a redevelopment rate on land characteristics, on the other hand, allows extrapolation to geographic or functional subsets of tax lots.

There is another critical requirement for the buildable lands study and that is to allow Council to evaluate the potential impacts of land use code amendments on projected capacity for housing.

⁷ A representative response is included in the July 8, 2009 Memo from ECONorthwest staff to the ECLA CAC which was contained in the AIS for the August 10 Council work session. ECONorthwest raised concerns about using anything more sophisticated than their approach to redevelopment, claiming such an analysis would necessarily be “complexly/probabilistic.” But the example ECONorthwest used was a “straw man” – suggesting that one must have an *a priori* predictive model that, for example, might be used for a community where no historical development data were available. This response ignored the straightforward approach of simply including more factors in analyzing available historical data on development within the Eugene UGB.

State law requires this evaluation to use the jurisdiction's acknowledged lands analysis. Thus, when a code amendment is proposed that may reduce the dwelling capacity on some set of parcels, the City must look back to the ECLA technical details to identify the aggregate number of dwellings specifically projected to be created on the set of parcels affected by the proposed amendment. The code amendment's aggregate impact on the affected set of parcels must then be determined. If there is a net reduction in aggregate dwelling capacity for these lots, the reduction must be applied to the estimated supply in the jurisdiction's acknowledged lands analysis. If that reduction would result in a land deficiency, the amendment cannot legally be adopted (unless the City takes some compensating action at the same time).

Since these types of Goal 10 requirements must use the jurisdiction's acknowledged lands analysis – e.g., ECLA – it's essential that the analysis allow the projected housing capacity to be tracked back to specific sets of tax lots.

Note that this does *not* imply that ECLA must predict the likelihood that a certain number of dwellings will be added to a specific, individual tax lot. What's required is that the projected dwelling contribution of *sets* of tax lots can be identified. ECLA already identifies various sets of tax lots by Metro Plan designation, whether a lot is vacant or developed, and other factors.

However, ECLA does *not* provide the necessary trackability for the number of dwellings projected to be created by redevelopment. Essentially, ECLA assumes that every area and every housing type will have the same rate of redevelopment. This will make it difficult, if not impossible, for the City to develop legally defensible findings on the impact of many code amendments that might impact housing capacity. This would impose a serious constraint on Council's revising residential zoning and would potentially prevent adoption of many "infill compatibility" standards.

I raised this issue multiple times with the ECLA team from the very beginning of the CAC process. I also presented a hypothetical case that staff could use to evaluate how the ECLA approach to redevelopment could be used to evaluate a proposed set of infill standards. Despite explicit staff assurances that they would address this critical issue, on September 11, I received an e-mail from staff that said:

"Sample Case Impact - Staff has not directed our consultant team, nor are we internally pursuing at this time an exercise that would examine the implications of ECLA redevelopment assumptions in a sample case. Given that Council will have additional work sessions where methodology or data related to this (or any other variable) may be discussed and or altered, it would be premature to do this type of analysis at this point in time. However, this does not necessarily mean that it wouldn't have an illustrative purpose as discussions move forward."

It boils down to this: The ECLA team has not, and in fact, is unable to, demonstrate that the ECLA analysis will enable an effective evaluation of what impacts a proposed code amendment will have on projected redevelopment for the set of lots affected by the amendment.

Beyond this particularly serious deficiency, many of the other ECLA deficiencies discussed above also weaken the City's ability to evaluate code amendment's impact on the capacity for future housing. Specifically, the omission of important housing types, the lack of "underbuild

rates” that are based on relevant factors and the general lack of fine-grained, multiple-factor analysis all create problems in this regard.

31 **Erroneous ECLA redevelopment data**

ECONorthwest based its redevelopment projection on their estimate that 722 dwellings created during 2001-2008 were “redevelopment.” After repeated requests to staff, the summary data used by ECONorthwest was provided on September 11. (Staff has still not responded to a request for the actual detail data from which this summary data was derived.)

Examination of this data reveals major errors. At least 200 of the 722 dwellings appear to have been created either earlier than 2001 or later than 2008.⁸ That would mean the actual number of “redevelopment” dwellings is no more than 522, and that the ECLA projection overstates the “baseline” redevelopment rate by over 38%!

On the other hand, the ECLA summary data omits at least 16 dwellings that *were* created on previously developed land during 2001-2008.⁹ Because it’s difficult to determine how much redevelopment the ECONorthwest analysis missed, no one can estimate whether the analysis missed more or less than the number of dwellings that were incorrectly included.

I’ve also heard from another CAC member who has been checking the summary data that there are a number of additional errors in the university area. Due to the short time available to validate the data, we haven’t yet compiled a full report; however, our findings to date are available to you and staff if you desire more details.

ECONorthwest and staff were repeatedly urged to validate this critical data, but to my knowledge they took no action. This negligence occurred despite a July 16, 2009 letter from Lane Council of Governments (LCOG) to ECONorthwest detailing a long list of potential sources of errors and a warning that “no accuracy measure has been calculated” for the supplied data. Furthermore, even in the ECONorthwest analysis presented in Council work sessions, there is a statement:

“This number [722] may overestimate the actual redevelopment on these lots; some new dwellings may have been part of a phased development-particularly apartments.”

Essentially, the ECLA team is asking City Council to approve a critical “baseline assumption” that uses completely unreliable data and a patently invalid method of analysis.

Conclusion and recommendations

In summary, the ECLA analysis is deficient in its methodology and based at least in part on unreliable data.

In its current form, ECLA will not provide a defensible determination for the HB 3337 decision and falls far short of providing a sound foundation for City Council and the community to have a reasoned discussion about such important issues as the UGB and the nature of denser development. ECLA will also not allow City Council to effectively evaluate future code amendments for Goal 10 compliance.

⁸ These include Kingsley Court Retirement Center, Terpening Terrace, Hutton House, a conversion at 675 W. Broadway and others. Development timing was verified by phone calls to the retirement centers and an examination of building permit data.

⁹ A 16-unit apartment on W. 11th Ave.

The ECONorthwest and Planning staff's handling of the redevelopment data and the adequacy of ECLA to support evaluation of Goal 10 compliance are troubling beyond the impacts on the validity and sufficiency of ECLA. The repeated ignoring or dismissal of these issues lends the impression that the consultants aren't exercising due care in their work and staff is not serving as the agent of the Council and citizens to assure the consultants' product meets appropriate standards.

As a consultant myself, I can appreciate the consultant's dilemma in accepting a fixed-fee contract with a tight deadline and subsequently realizing it may be very difficult or impossible to deliver the work product on time and of acceptable quality. However, faced with such circumstances, a consultant's proper response is to be candid with the client and take appropriate action. In any case, it is staff's responsibility to Council and citizens to hold consultants accountable for the quality of their work, rather than to serve the consultants' interests.

The scope of problems introduced in this letter is too broad and technical for Council to address in your September 28 work session.

Accordingly, I would recommend Council direct the City Manager to take three actions:

1. Provide a thorough, detailed response to each of the issues raised above.
2. Enlist one or more independent, qualified individuals to review the ECLA work to date, as well as critiques in this letter and other communications from CAC members, and to provide the City Council with an assessment.
3. Provide clear direction to staff regarding their responsibilities with regard to consultants engaged by the City. These instructions should make clear that one of the fundamental responsibilities is for staff to be the City's "watchdog" to make sure work meets acceptable professional standards.

Thank you again for your consideration. Please feel free to contact me if you have any questions.

Respectfully,



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