

From: Kyla Boswell
Sent: Tuesday, January 27, 2026 3:53 PM
To: Patti Gearhart
Cc: Michael Cerbone
Subject: FW: Written Request for Record Citations / Church/Vista Neighborhood Center Proposal (Subarea 8) / 2025 Comprehensive Plan Update / Signed Petition Against Church/Vista NC
Attachments: [2026_01Jan_Petition_To_Remove_Church_Vista_NC_Signed.pdf](#); [2026_01Jan_GMHB_Appeal_Prefilled.pdf](#)

Patti, Please add to the rezone folder.

Kyla Boswell
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 City of Ferndale
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 Ferndale, WA 98248
 (360) 685-2391

Please note:

My emails are subject to public disclosure.

The contents of this communication are for informational purposes only and shall not be construed as a formal land use decision or commitment, and shall in no way be construed to provide administrative appeal or other rights.

From: Thomas Y <thomasleaf@gmail.com>
Sent: Tuesday, January 27, 2026 3:02 PM
To: Michael Cerbone <MichaelCerbone@cityofferndale.org>; Kyla Boswell <KylaBoswell@cityofferndale.org>
Cc: Robert Pinkley <robertpinkley@cityofferndale.org>; Herb Porter <HerbPorter@cityofferndale.org>; McKenna Pinto-Gonzalez <McKennaPintoGonzalez@cityofferndale.org>; Jon Mutchler <jonmutchler@cityofferndale.org>; Ryan O'Larey <RyanOLarey@cityofferndale.org>; Susan Duncan <SusanDuncan@cityofferndale.org>; council@cityofferndale.org; Greg Hansen <GregHansen@cityofferndale.org>
Subject: Written Request for Record Citations / Church/Vista Neighborhood Center Proposal (Subarea 8) / 2025 Comprehensive Plan Update / Signed Petition Against Church/Vista NC

EXTERNAL EMAIL

Dear Michael, Planning Committee. City Council and Mayor,

Attached is the **signed petition opposing the Church/Vista Neighborhood Center designation in UGA Annex Subarea 8** (representing **>78.9%** acreage and **>77.1%** assessed value of the subarea, as of Jan 27, 2026.)

We **request a written response with citations** to the public record (document name + page/section) addressing the questions below. These issues are independent; resolving one would not cure the others. Please address each item separately with specific record references.

1. Implementation path absent annexation. What is the City's realistic, lawful path to deliver required urban services for this designation if annexation does not occur (including sewer trunk, water, and ROW/easements)? Please cite where this path is analyzed in the record.
2. Capital facilities and financing. Where is the adopted, reasonably financed plan (CFP, TIP, or other adopted funding schedule) for the major improvements assumed for this designation-particularly the road items outside City limits (R-11 Vista Dr, R-12 Church Rd) and any trunk sewer/arterial widening? If the City's cost estimates exclude ROW/easement acquisition or condemnation costs, please identify that assumption explicitly in the record.
3. Transit "reasonable expectation." What transit agency commitment or adopted service plan supports the "transit-supportive" rationale for this location (route, frequency/span, funding, stop siting)? If none exists, what is the City relying on to establish a "reasonable expectation," and where is that documented in the record?
4. Mixed-use market feasibility. Where is the market viability analysis supporting commercial space and true mixed-use development at this location (beyond theoretical zoning capacity), particularly given the City's limited mixed-use outcomes even in the existing downtown under incentive programs?
5. Remedy / off-ramp. If the record does not currently demonstrate the above prerequisites, would staff support removing or deferring Subarea 8's Neighborhood Center designation from the 2025 docket until an adopted, reasonably financed implementation path is established in the record?
6. Please confirm whether staff disagrees with any material factual findings in the attached petition (e.g., annexation/service feasibility, lack of adopted/financed implementation path, lack of transit commitment, lack of market viability showing). If staff disagrees with any item, please (a) identify the specific statement(s), (b) provide the corrected fact, and (c) cite to the public record (document + page/section).

For context, the attached petition is signed by majority landowners in the annex block. We are seeking to avoid unnecessary dispute; a short, record-cited written response would assist in clarifying these issues.

Petitioners reserve the right to pursue all available remedies, including submission of a pre-filled petition for review/invalidity with the Growth Management Hearings Board if the designation is adopted without addressing the documented infeasibility concerns.

Thank you for your attention to this request.

Best regards,

Majority Landowners of Ferndale Annex Subarea 8
Contact: Thomas Yip
(206) 388-8181
thomasleaf@gmail.com

PETITION TO REMOVE THE CHURCH / VISTA "NEIGHBORHOOD CENTER" FROM THE 2025 DOCKET

We, the undersigned, represent more than 78.9 % of the land in acreage and 77 % in assessed value of the annex block (Central Aldergrove, Subarea 8 per 2016 Ferndale Annex Blueprint).

We strongly oppose all proposed rezones to MXD, GB, RM-H, RM-M, RS-High, and NC, because they are not realistic under the Growth Management Act's requirement for evidence-based capacity.

If the City attempts annexation, affected owners will timely request Boundary Review Board review. Absent annexation, the City lacks a reliable, cost-effective path to extend sewer and urban services, making timely urbanization infeasible.

Brief rebuttals are provided in the Page 3 section titled Infeasibility and GMA Compliance Deficiencies in the Church/Vista Proposal.

We demand the Planning Commission recommend total removal of the Church/Vista Neighborhood Center from the 2025 docket. We further request a written response to this petition as part of the public participation process. This plan misallocates capital toward development that is not feasible under any realistic market or infrastructure scenario.

If not removed, we will appeal to the Growth Management Hearings Board for invalidity, citing unrealistic capacity, and may appeal any SEPA determination, including any DNS or inadequate EIS, that does not fully address the impacts of the proposed upzone and related service and capital-facilities assumptions within the existing UGA.

Name	Address / Parcel #	Signature	Date
Bill Baader DULKINTIS TRUST	6369 Vista Dr. 92812 - 13 acres 93002 - 10 acres 92913 - 5 acres 93031 - 10 acres 93029 - 16 acres 93047 - 12 acres	Andrea and William Baader	1-27-20
Thomas T Yip Aldergrove Vista, LLC	6489 Vista Dr. 92993 - 9.3 acres 92842 - 9.5 acres	TK Yip	Dec 12, 2025
David Neuser	6463 Vista Dr. 93090 - 1 acre	David Neuser	1-12-2026
Sara Neuser	6457 Vista Dr. 93107 - 0.5 acre	Sara	1/13/2026

Infeasibility and GMA Compliance Deficiencies in the Church/Vista Proposal

1. Annexation is extremely unlikely within 20 years; absent annexation, the City has no realistic, lawful path to implement the Neighborhood Center except by acquiring easements/right-of-way (or using eminent domain), which is politically and practically unlikely and cost-prohibitive.
2. The plan assumes major road widenings and infrastructure expansions that are not adopted or funded. The listed road projects (R-11 Vista Dr and R-12 Church Rd) are outside City limits, and the City has not shown a lawful, funded path to deliver them. The cost estimate also appears materially understated because it does not include right-of-way/easement acquisition (or condemnation) costs.
3. The mixed-use assumptions are unsupported by market demand and rely on densities that have no record of occurring in Ferndale. While MXD zoning technically allows a single commercial storefront to enable multifamily construction behind it (which is somewhat more feasible), this loophole defeats the stated purpose of the designation: a true mixed-use, car-lite district that is transit-supportive (the stated rationale for creating the designation in the first place). The Downtown Catalyst Program and other multi-year incentives in the existing downtown have produced few, if any, true mixed-use developments, demonstrating that such densities and commercial activity are infeasible even in areas with far superior amenities. Against that record, the City's implied claim that commercial space at this location would be viable is extraordinary—yet the City provides no basic market viability analysis to support it.
4. Transit assumptions are speculative and unsupported. The record contains no transit agency commitment or adopted service plan for this location (route, frequency/span, funding, or stop siting). Without committed transit service, the Neighborhood Center concept lacks evidence of feasibility.
5. The staff report cites HB 1181 (2023) and the Transportation and Climate Elements as justification for the proposed Neighborhood Center, but the record does not demonstrate an adopted, reasonably financed implementation path (transit/service commitments and capital facilities) to support such a district here.
6. **Upzones within an existing UGA must be capable of urbanization within the 20-year horizon.** Under RCW 36.70A.110, the GMHB has repeatedly held that designations relying on speculative future governance or unsupported service assumptions are invalid.
7. **Urban services must be realistically feasible, not theoretical.** The Board has held that infrastructure assumptions must be supported by substantial evidence and cannot depend on actions outside the City's legal authority.
8. **Capacity assumptions must reflect actual development feasibility.** RCW 36.70A.070(1) requires land use elements to be based on realistic assumptions. The GMHB has rejected "paper capacity" based on densities that cannot occur because of infrastructure, service, or market constraints (for example, *Miotke v. Spokane County*). Here, the record contains little to no evidence that viable mixed-use development is feasible at this location.
9. **The GMA prohibits relying on unfunded or unplanned capital facilities.** RCW 36.70A.070(3) requires capital facilities to be planned and reasonably financed. The record does not demonstrate any adopted, reasonably financed plan for the major arterial widening or sewer trunk extensions required for the Neighborhood Center in the City's CFP, TIP, or in any publicly available cost study. Absent such evidence, the proposal does not satisfy the GMA's capital-facilities planning/financing requirements under RCW 36.70A.070(3) and related transportation concurrency provisions in RCW 36.70A.070(6)(b). Similar failures have resulted in invalidity findings (for example, *Spokane County v. EWGMHB*).
10. **A City cannot assume transit service without agency commitment.** Only agency-committed transit service can support a "reasonable expectation" finding under the GMA (e.g., *Save Richmond Beach v. Snohomish County*). A single stop (or a few stops) is not a transit plan capable of supporting a Neighborhood Center or its stated emissions/VMT-reduction rationale.
11. **The City's inability to annex the area eliminates the possibility of providing required urban services.** This cannot be reconciled with RCW 36.70A.110(3). If annexation is not reasonably achievable, the proposed Neighborhood Center designation (and associated intensities) cannot stand (Thurston County line of cases).

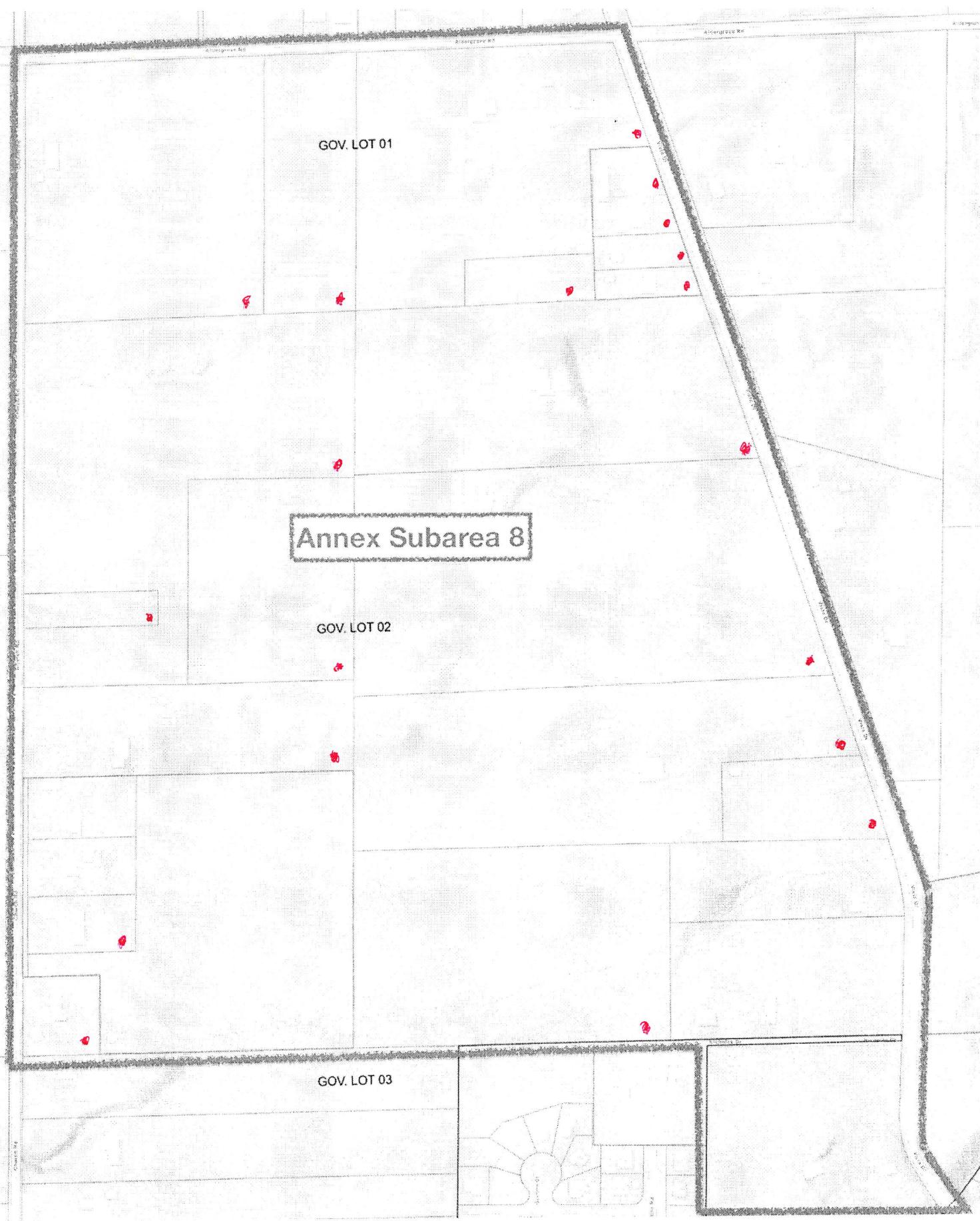
The Neighborhood Center proposal is not supported by substantial evidence in the record, as required by the GMA. The City's estimates assume annexation, service authority, planned capital facilities and transit, and high-intensity densities—without showing a credible, funded implementation path for this location within the GMA planning horizon. As a result, the Neighborhood Center designation shifts unaccounted-for infrastructure obligations into the public realm as unfunded or underfunded obligations that are unlikely to be repaid—locking the area into a low-amenity, low-demand spiral with illusory density and underutilized facilities. Meanwhile, Ferndale has other areas with existing services, fewer hidden public costs, and better conditions for density and private investment. The Neighborhood Center designation is not viable here, would not benefit Ferndale, and therefore should be removed from the docket.

GOV. LOT 01

Annex Subarea 8

GOV. LOT 02

GOV. LOT 03



PETITION FOR REVIEW (GMHB) (READY UPON ADOPTION)

I. PETITIONERS

[First Name] [Last Name], [Your Address], and co-signers representing the majority of landowners in Subarea 8 (Central Aldergrove/Church-Vista per 2016 Ferndale Annex Blueprint). Pro se (no attorney). Contact: [Phone/Email].

II. CHALLENGED ACTION

Proposed rezoning and designation of Subarea 8 as "Neighborhood Center" (MXD, GB, RM-H, RM-M, RS-High, NC) in the 2025 Ferndale Comprehensive Plan Update, pending adoption by the City Council on [ADOPTION DATE, if passed], following the January 14, 2026 Planning Commission hearing. Related UGA allocations by Whatcom County.

III. DETAILED STATEMENT OF ISSUES

The following issues are framed as yes/no questions per GMHB practice, with specific citations to RCW 36.70A and brief factual basis drawn from the attached majority landowner protest petition and public record. Petitioners answer "Yes" to each issue below. Each violation identified below is independently sufficient to warrant a finding of noncompliance and remand (and, if necessary, invalidity).

Does the designation violate RCW 36.70A.110 by assuming urbanization without a realistic, voluntary annexation path within the 20-year planning horizon, given documented majority landowner opposition (attached petition >70% acreage/value)?

Does it violate RCW 36.70A.070(3) by relying on unfunded or unplanned capital facilities (e.g., R-11 Vista Dr and R-12 Church Rd widenings, sewer trunk extensions outside city limits), where costs are materially understated (excluding right-of-way acquisition/condemnation) and no adopted, reasonably financed implementation path exists?

Does it violate RCW 36.70A.215 by using unrealistic capacity assumptions (mixed-use densities with no record of achievement in Ferndale, no market viability analysis, ignoring site-specific constraints such as slopes and wetlands)?

Does it violate RCW 36.70A.070(6)(b) by assuming speculative transit service without any adopted agency commitment (route, frequency, funding, or stop siting), rendering the "transit-supportive" rationale unsupported?

Does it violate RCW 36.70A.110(3) by assuming provision of required urban services infeasible without annexation, which is not reasonably achievable due to substantial documented opposition?

Does the designation violate GMA planning goals (RCW 36.70A.020) by failing to provide for affordable housing and sustainable economic development in a manner consistent with the Act's intent, instead creating self-defeating disincentives to voluntary annexation and efficient growth through unfeasible and speculative assumptions?

IV. STANDING

Petitioners have participation standing under RCW 36.70A.280(2)(b). The undersigned and co-signers submitted comments and testimony at the January 14, 2026 Planning Commission hearing and prior public meetings. The attached majority protest petition demonstrates direct involvement and impact as affected landowners in the proposed designation area.

V. ESTIMATED TIME REQUIRED FOR HEARING ON THE MERITS

4 hours.

VI. RELIEF SOUGHT

Petitioners request the Board find the Subarea 8 "Neighborhood Center" designation noncompliant with the Growth Management Act and remand the action to the City of Ferndale and Whatcom County with instructions to remove the designation entirely to reflect a level consistent with actual market demand, site constraints, regulatory realities, and landowner willingness.

Petitioners further request a finding of invalidity under RCW 36.70A.302 if necessary to prevent implementation of the noncompliant designation, recognizing that the designation's requirements, including imposed commercial obligations and minimum densities, substantially impair feasible development and exacerbate the other independent GMA deficiencies identified above.

Attachments/Exhibits (to be included upon filing)

Exhibit A: Majority Landowner Protest Petition (with signatures) Exhibit B: Relevant public hearing records and staff reports showing lack of market/transit/infrastructure support

Dated: [Leave blank until actual filing]
[Signature sheet for petitioners]