

Chapter 3

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## CHAPTER 3. *The Growth Management Act*

### A. Origins of Growth Management

Before the mid-1980's, "growth management" had only generic meaning for Washington planners. But with passage of the Growth Management Act (GMA) by the Washington Legislature in 1990,<sup>1</sup> and later amendments in 1991,<sup>2</sup> 1993,<sup>3</sup> 1995,<sup>4</sup> and 1997,<sup>5</sup> the term has acquired special significance. A landmark report, "A Growth Strategy for Washington State," issued by the Growth Strategies Commission in September 1990, captured much of the early thinking on the topic. Today, the Growth Management Act is codified in many chapters, but primarily in Chapter 36.70A RCW.

The GMA actually provides a new vocabulary for an old process. Terms such as classification, designation, conservation, protection, participation, consistency, conformance, and concurrency are now commonly used to describe progress in meeting growth management goals. Another term not to be forgotten is "opportunity." By opening the process to those who have not participated before, the Act provides an opportunity to help balance the demands that shape our communities. Through this program, a community can mobilize its energy and address critical issues through the public process. Most importantly, and beyond the opportunity to create a community vision, the Growth Management Act provides the tools a community needs to bring that vision to reality.

### The Growth Management Act The Origins of Legislative Control of Substantive Planning in Washington

Three forces in the community merged into a strong legislative force in the late 1980's, propelling growth management: 1) increased growth in the metropolitan areas of Puget Sound; 2) recognition statewide that resource and critical areas needed greater protection; and 3) the need for economic development and public services in Washington's economically depressed areas.

In the mid to late 1980's, a strong regional economy generated rapid growth in the central Puget Sound basin. Populations gradually moved farther from employment centers, straining infrastructure and the ability of local government to provide

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adequate public services. People also moved into rural areas, converting them to suburban strips. One of the forces behind growth management was awareness that urban sprawl can be expensive (over-taxing limited public facilities), and destructive to rural and resource lands.

Municipalities and state agencies had wrestled for nearly 20 years (with mixed results) with wetland, wildlife and aquifer protection issues, and with conservation of agricultural, mineral, and timber lands. Communities experimented with resource and critical area management guidelines—often as overlays or additions to traditional zoning tools—but regional efforts, for the most part, were uncoordinated. In the end, they were viewed largely as too little, too late.

By the late 1980's, "growth" in some areas seemed out of control. Urban sprawl appeared to threaten critical areas and resource lands, while local governments seemed unable or unwilling to deal directly with the resulting conflicts. In this climate, the state's Growth Strategies Commission was appointed.

Resource management and critical area protection was the second force that converged on the growth management movement, beginning with two state planning mandates of the 1970's: the State Environmental Policy Act (SEPA)<sup>6</sup> and the Shoreline Management Act (SMA).<sup>7</sup> These provided models for state regulation of local planning in matters where an overriding state interest was perceived.

While the Puget Sound regional economy was solid and growing, parts of western and eastern Washington were economically depressed or stagnant due to a decline in resource-based industries. The Growth Strategies Commission determined that land use planning and funding for infrastructure repairs and additions were needed to revitalize these areas. Its September 1990 report presented 10 recommendations for action, highlighting a need to share and encourage economic growth in all regions of the state.g

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## GROWTH STRATEGIES COMMISSION

### 10 RECOMMENDATIONS FOR ACTION

1 All local governments must protect environmentally sensitive areas and address identified environmental problems. Immediate action should be taken to protect threatened resources and areas.

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The state, regional, and all local governments should identify open space and link it in networks to permanently separate cities, protect and enhance the environment, provide for recreation, and secure a strong resource base for agriculture and forestry.

All local governments should prevent development from encroaching on commercially viable agricultural and forest lands.

The state should establish a process to identify and protect lands and resources of value to all citizens of the state.

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The state should focus its spending to build a network of strong regional economies that seek to spread growth across the state.

Local governments should seek to concentrate employment centers and housing, using urban design to preserve community character and open space.

Urban growth should be contained to protect the environment and to make more efficient use of public facilities. Cities are the preferred places for urban growth.

Required housing and land use plans must include sufficient developable land for a range of housing types. Each community within a region should be required to accept its fair share of low-income housing. The state should increase funding for housing programs for low-income people, special needs populations, and moderate- and middle-income home buyers.

Funding for transit should favor communities with supportive land use plans. Comprehensive plans should link land use and all types of public facilities—parks, schools, sewers, storm water drainage, fire, and transportation.

A process must be developed by which all communities within a region fairly share the burden of public facilities.

Public pressure to address growth management was intense during the 1990 legislative session. Using the preliminary findings of the Growth Strategies Commission, the Legislature enacted and Governor Gardner signed into law ESHB 2929, the Growth Management Act (GMA). This legislation emphasized a "bottom up" approach to planning, in which counties and cities were to use state guidelines to shape their own comprehensive plans to manage growth. Although deadlines for meeting the requirements were established, there was originally no penalty if local governments did not meet them.

At the end of the session, representatives of several environmental groups determined that the GMA lacked teeth,

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**having few incentives to meet its requirements. These groups circulated an initiative to create a more centralized system with stricter, state-mandated guidelines for local governments. Sanctions would be imposed for not meeting deadlines or requirements.<sup>9</sup>**

**The initiative was narrowly defeated, but the Governor and Legislature proceeded to implement the recommendations of the Growth Strategies Commission in the next legislative session. This legislation resulted in the 1991 amendments that provided for administration and enforcement of the GMA. <sup>10</sup> Significant changes were also made in 1993,<sup>11</sup> 1995,<sup>12</sup> and 1997 legislative amendments.<sup>13</sup>**

**The Legislature left to the Washington State Department of Community, Trade and Economic Development (CTED) the task of defining the details and creating the explanatory resources for implementing the GMA. Two principal sets of guidelines have been adopted as part of the Washington Administrative Code:**

- *Minimum guidelines for classifying and designating agricultural, forest, mineral lands, and critical areas.* <sup>14</sup>
- *Procedural criteria for adopting comprehensive plans and development regulations.*

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**In addition, CTED has published more than 40 guidebooks and other publications on growth management. (See Appendix 1 for an order form for these publications.)**

**The 1993 amendments set deadlines for adopting interim urban growth areas for counties initially required to plan under the GMA and those opting in. The deadline for adopting comprehensive plans and development regulations for counties choosing to plan was extended from three years to four years from the date they chose to plan. The Governor was given authority to impose sanctions for not meeting GMA deadlines without a growth management hearings board review.**

**In 1995, the Washington State Legislature enacted and the Governor signed a broad land use and environmental regulatory reform law recommended by the Governor's Task Force on Regulatory Reform (ESHB 1724). ESHB 1724 made significant changes to three of the state's core land use**

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laws: the Growth Management Act (GMA); the State Environmental Policy Act (SEPA); and the Shoreline Management Act (SMA). The primary goal of the regulatory reform is to establish comprehensive plans and development regulations as the foundation from which subsequent land use decisions are made. ESHB 1724 also introduced new state requirements for more coordinated and streamlined project review and decisions. At the project level, integration of environmental review and the permit process is required in all jurisdictions. Jurisdictions fully planning under the GMA have more specific requirements for integrated project review. Finally, ESHB 1724 created the Land Use Study Commission, whose primary goal was to make recommendations on the integration and consolidation of the state's land use and environmental laws into a single, manageable statute.

In 1997, the Washington State Legislature enacted and the Governor signed a bill implementing a number of recommendations of the Land Use Study Commission. The commission examined the consolidation of state land use and environmental laws, and completed a report and recommendations with respect to the GMA and related state laws. 16 ESB 6094 made a number of significant changes to the rural land use provisions of the Act, redefined the standard of review to be applied by growth management hearings boards reviewing actions of counties and cities, revised public participation requirements, and made several changes to hearings board procedures. Specific additions or changes to the Act created by ESB 6094 are noted throughout this chapter. The Land Use Study Commission submitted a final report to the Legislature in December 1998.

## **B. The Primacy of the Comprehensive Plan**

Adopting a comprehensive plan is the starting point for any planning process. The comprehensive plan expresses a community's vision of itself—the community it would like to become—its hopes and dreams, and the philosophical underpinning for any planning activity. It is an expression of the "public interest," in the sense of exercising the public authority of a municipality. Since the GMA was enacted, it has been specifically enforceable as the blueprint or framework for all subsequent land use regulation activity.

Although the county-wide planning policies (discussed later in this chapter) set the direction for comprehensive planning on a regional level, the comprehensive plan is the starting point for any discussion of the local land use process. It is

also the touchstone for measuring community actions, and the policy framework by which all community planning enactments will be judged.

The comprehensive plan is formulated initially by a planning commission (appointed residents with an interest in planning), with technical assistance from the planning staff. Ultimately, the elected public officials (city councils or county commissions) adopt it. Comprehensive plans typically are processed through a series of public hearings. These give the public an opportunity to express their views on community plans. Growth management legislation stresses early and continuous public involvement to validate these planning efforts. 17

Comprehensive planning identifies community or "public" interest through a public and political process. The resulting plans reflect the political compromises needed to forge consensus for a community plan. While not everyone will be satisfied with the end result, the comprehensive plan as adopted should deal with the many conflicting forces that shape a community. It is not the purpose of a comprehensive plan to eliminate conflict. Rather, it provides the framework for considering and resolving conflicting issues in the community.

The comprehensive plan is now the centerpiece of local planning. The growth management movement of the late 1980's led to several changes in philosophy, including a statedirected mandate that all cities and counties accomplish certain objectives. To this extent, growth management is a move toward a more central-control model and away from the populist, local-option model of the past. While local autonomy is still the rule, the Legislature recognized the need for action and coordination--consideration of many local planning issues can no longer be left to chance.

## **C. The Goals of Growth Management Planning**

Growth management, as a legislative policy, is expressed in these 14 goals:

- **Urban Growth - Encourage urban growth where facilities are adequate to meet service needs.**
- **Reduce Sprawl - Eliminate sprawling, lowdensity development that is expensive to deliver**

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services to and is destructive to critical areas, rural areas, and resource values.

- **Transportation - Encourage efficient, multimodel transportation.**
- **Housing - Encourage a variety of affordable housing for all economic segments of the population.**
- **Economic Development - Encourage economic development consistent with resources and facilities throughout the state.**
- **Property Rights - Protect property from arbitrary decisions or discriminatory actions.**
- **Permits - Issue permits in a timely manner and administer them fairly.**
  - **Natural Resources Industries - Maintain and enhance resource-based industries.**
- **Open Space and Recreation - Encourage retention of open space and recreational areas.**
- **Environment - Protect the environment and enhance the quality of life.**





Next, the Legislature required all counties in the state to "designate and classify" resource lands and critical areas. Fully planning communities were also required to adopt regulations to "conserve" resource lands and to "protect" critical areas. This was a first step toward implementing comprehensive planning under the GMA. Counties and cities not fully planning under the GMA must also adopt regulations to protect critical areas.

## E. Clarifying Growth Management: Five Challenges For Your County or City

The legislative and policy directives of growth management may seem like a huge task at first. But counties and cities may be able to deal with the challenges more effectively if they divide the state's requirements into five unique tasks:

### GROWTH MANAGEMENT: KEY COMPONENTS 1      Classification, designation, conservation, and protection - the conservation and critical areas protection.

- 2      Population, urban growth boundaries, county-wide policies, local planning process.
- 3      Comprehensive plans management.
- 4      Zoning, platting, and official controls - the coordination of local development regulations and requirements of "consistency" with comprehensive plans.
- 5      Project review - the requirements of "consistency" and environmental review in planning and development: Land use designations, levels of development, infrastructure, characteristics of development, and identification of probable adverse environmental impacts. Following are guidelines for each task, focusing on key points to keep in mind as you go through the process.

steps in resource lands regional plans - regionalizing the

- the heart of the redefined planning process under growth

Following are guidelines for each task, focusing on key points to keep in mind as you go through the process.

## Classification, Designation, Conservation, and Protection: Steps in Resource Lands Conservation and Critical Areas Protection

Resource lands and critical area planning statewide is the primary mandate of the GMA. Each city and county in the state must

...designate where appropriate:

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- Agricultural lands ...not already characterized by urban growth and that have long-term significance for commercial production of food or other agricultural products;

Forest lands ...not already characterized by urban growth and that have long-term significance for the commercial production of timber;

- Mineral lands... not already characterized by urban growth and that have long-term significance for the extraction of minerals; and
  - Critical areas.<sup>20</sup>

The Legislature chose to define wetlands and geologically sensitive areas in the GMA,<sup>21</sup> but left frequently flooded areas, fish and wildlife habitat conservation areas, and critical aquifer recharge areas undefined. Definitions for these areas are found in minimum guidelines published by the Washington State Department of Community, Trade and Economic Development.<sup>21</sup>

**a) Classification and Designation**

All communities must complete the "classification and designation" of their important resource lands. Guidelines, developed by CTED and published as part of the Washington Administrative Code, explain the purpose of this statewide mandate and define "classification" and "designation."

Classification...means defining categories to which natural resource lands and critical areas will be assigned.

Designation establishes for planning purposes: the classification scheme; the general distribution, location, and extent of [resource lands and critical areas]. Designation means, at least, formal adoption of a policy statement, and may include further legislative action.<sup>23</sup>

Various state agencies, including the departments of Ecology and Fish and Wildlife, have published detailed guidance documents for local communities on critical area issues such as wetlands and fish and wildlife habitat. These include model ordinances and lists of recommended habitats and species for protection.<sup>24</sup>

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**The GMA requires that best available science (BAS) be included in developing policies and development regulations to protect the functions and values of critical areas.<sup>25</sup> Local governments must also give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries. CTED provides guidance to local governments in how to identify what constitutes BAS for critical areas protection and how local governments should include science in their policies and development regulations.**

**The CTED "Minimum Guidelines for Agricultural, Mineral, Forest, Resource Lands, and other Critical Areas" provide specific guidance for each of the critical areas.<sup>16</sup> Some of these guidelines are mandatory (expressed as "shall") and many are suggested (expressed as "should"). In 1994, the Legislature added several criteria to be used in designating forest land. The designation of forest**

land shall take into account the proximity to human settlement, the size of the parcel, the long-term economic conditions, and the ease of conversion from forest use to more intense uses.<sup>27</sup>

Examples include:

With respect to wetlands, communities "shall" use the wetlands definition identified in the statute.<sup>28</sup>

Communities are "encouraged" to make their policies consistent with Executive Orders 89-10 and 90-04, which provide no net loss policies statewide for state agencies.

Communities "should consider" wetlands protection guidance provided in the Department of Ecology (DOE) model wetland ordinance.

Communities "should consider" the state's four-tier wetlands rating system.<sup>29</sup>

Counties and cities not fully planning under the GMA will satisfy their obligation by classifying and designating resource lands and critical areas (with attendant policy statements and regulations, if desired). However, they are then required to adopt development regulations to protect designated critical areas.<sup>30</sup>

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**b) Resource Lands and Critical Areas in Fully Planning Communities**

**Fully planning communities have an additional responsibility to adopt regulations to conserve resource lands and protect critical areas:**

*...to assure the conservation of agricultural, forest and mineral lands.... [and]*

*...assure that use of lands adjacent to [resource lands] shall not interfere with the continued use, in the accustomed manner, of these designated lands for the production of food, agricultural products or timber, or for the extraction of minerals. [and]*

*...protecting [designated] critical areas... 31*

**As identified in the Minimum Guidelines, the purpose of this program is to help shape the plans, assuring that**

*... natural resource lands are conserved and critical areas are protected from incompatible development while the plan is in process. 32*

**The Minimum Guidelines state that the actions of designation and classification do not necessarily imply a change in the landowner's rights to use land under current law. The state recognized that land is to be regulated on a parcel basis and that innovative land use management techniques should be applied when planning communities adopt regulations to "conserve and protect" resource lands and critical areas."**

**The requirement to "conserve" resource lands and "protect" critical areas was the first step for counties and cities under the GMA. The purpose is to conserve and protect these lands early in the planning process.**

*Two of the Act's most powerful organizing concepts to combat sprawl are the identification and conservation of resource lands and the protection of critical areas (see RCW 36.70A.060 and .170) and the subsequent setting of urban growth areas (UGAs) to accommodate urban growth (see RCW 36.70A.110). It is significant that the Act required cities and counties to identify and*

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*conserve resource lands and to identify and protect critical areas before the date that IUGAs had to be adopted. This sequence illustrates a fundamental axiom of growth management: "the land speaks first." Only after a county's agricultural, forestry and mineral resource lands have been identified and actions taken to conserve them, and its critical areas, including aquifers, are identified and protected, is it then possible and appropriate to determine where, on the remaining land, urban growth should be directed pursuant to RCW 36.70A. 110.34*

**When the comprehensive plan is adopted, counties and cities will be developing and adopting development regulations to implement the plan. At this time, they will need to review and possibly revise critical areas and natural resource lands ordinances to ensure consistency with the plan.**

## **2. Population, County-Wide Planning Policies, Urban Growth Boundaries, and Regional Plans: Regionalizing the Local Planning Process**

**The Growth Strategies Commission recognized that local control of planning is not always possible-- much of a community's growth and development is shaped by forces outside the community.<sup>35</sup> These include the rate of population growth, location of regional facilities, transportation patterns, resource use or conversion, and local preferences for or against growth in surrounding communities.**

**These concerns led the Legislature to mandate "regional," i.e. county planning. Previous efforts to require regional planning through state regulations were, for the most part, discretionary. The Shoreline Management Act<sup>36</sup> was one of the first efforts at state-mandated regional land use planning. Courts have also held that a "regional" inquiry is necessary under SEPA<sup>17</sup> when considering projects with impacts beyond a community boundary.<sup>38</sup> Such inquiries, however, were sporadic, uncoordinated, and often ineffective against regional growth pressures in rapidly growing areas.**

**Under the growth management model, the Legislature directed a regional approach to planning. Four specific requirements aid in accomplishing that model.**

**a. Population**

The first step in developing local plans is to analyze regional population figures.

Each county and city must plan for a 20-year population growth based on figures supplied by the Office of Financial Management (OFM).<sup>39</sup> Projected population growth is provided to each county by OFM as a reasonable range developed within a standard state high and low projection, 40 Each county works collaboratively with the cities within the county to allocate the population 41

All incorporated cities and towns within a planning county are also required to plan, regardless of size or financial capability. Many small communities with similar interests can reduce the cost of participation by banding together and developing models or guidelines that fit common needs and administrative abilities.

**b.**

**County-Wide Planning Policies**

Counties, in conjunction with cities and towns, are required to develop a series of county-wide planning policies. This provision, added in 1991 as part of the RESHB 1025 amendments,<sup>42</sup> was a necessary prerequisite for coordinating a county's local planning programs. The county-wide planning policies are now required as the framework for local comprehensive plans and development regulations.

**COUNTY-WIDE PLANNING POLICIES ARE DESIGNED TO:**

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Implement urban growth boundaries<sup>43</sup>

Promote an orderly provision of urban services to urban development areas Site public capital facilities of a county-wide or statewide nature

Provide county-wide transportation Assure adequate, affordable housing Enable joint city/county planning within urban growth areas Encourage county-wide

economic development  
Analyze fiscal impact

**This legislation set up a program for regional cooperation; it makes the counties responsible for overall policy coordination within the planning framework set forth by the Legislature.<sup>44</sup>**

**(A copy of Thurston County's County-Wide Planning Policies is included in Appendix 3, showing how one county dealt with the issues raised.)**

**The Central Puget Sound Growth Management Hearings Board has made it clear that in its jurisdiction a county may not alter the fundamental tenets of growth management planning through its planning policies. This includes the requirement that cities must be urban service providers within urban service boundaries.<sup>45</sup>**

c. Designation of Urban Growth Areas

**Once regional planning policies are in place, designation of urban growth areas is the next step.**

**One cornerstone of growth management is that new development which requires urban services should occur within defined urban growth area boundaries. "Urban growth areas" are defined as,**

*...areas within which urban growth shall be encouraged and outside of which growth can occur only if it is not urban in nature. 46*

**The rules for urban growth areas are:**

- *All cities shall be in urban growth areas.*
- *Urban growth areas shall permit the "urban growth" projected to occur in the county within the next 20 years, based on urban densities, predicted rate of growth, and greenbelt and open space areas.*

*Urban growth shall occur first in areas already characterized by urban growth with existing public facilities and services, and, second, in areas already characterized by urban growth that are not yet served by public facilities and services, but that will be served by such facilities and services. 47*

Establishing urban growth areas (UGAs) is a major step local communities will take in managing their growth. Local communities must design UGAs to include "areas and densities sufficient to permit the urban growth that is projected to occur in the county or city for the succeeding 20-year period."<sup>48</sup> To provide for growth, local communities need a thorough understanding of what land is realistically developable, available, and suitable for growth within their communities. Each community should do an inventory of available land for development. Based upon that information, and on proposed densities within the UGA, the community should calculate how much land is needed to accommodate the projected population before designating their UGA.<sup>49</sup>

Communities will review, at least every 10 years, their designated UGAs and the densities permitted within both the incorporated and unincorporated portions of each UGA. The UGAs and densities will then be revised to accommodate the projected growth for the succeeding 20-year period.<sup>50</sup>

Although counties and cities are only required to review and revise their UGAs and permitted densities every 10 years, they are also subject to continuing review and evaluation.<sup>51</sup> By September 1, 2002, and at least every five years after that, local governments need to take action to review and, if needed, revise their plans and regulations to ensure that they comply with the GMA.

#### **d. The Requirements for Regional Planning**

The Legislature has specified several regional tasks that must be implemented through growth management planning.

##### **1) Regional Transportation Planning<sup>52</sup>**

The Legislature has determined that Washington's transportation system<sup>53</sup> should function as "one interconnected and coordinated system."<sup>54</sup> At all jurisdictional levels, it mandated, transportation planning

*...should be coordinated with local comprehensive plans. 55*

Regional Transportation Planning Organizations, authorized by the Legislature, were created to facilitate this cooperation. They are required to:

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*Encompass at least one complete county.*

- *Have a population of 100,000 or a minimum of three counties.*
- *Have as members all counties in the region and at least 60% of the cities and towns in the region representing a minimum of 75% of the population of the cities and towns. 56*

#### **A Regional Transportation Planning Organization is charged with the following tasks:**

- *Identify a lead agency to carry out organizational tasks.*  
*Develop and adopt a regional transportation plan.*
- *Review the plan biennially to make sure it is current.*
- *Provide the plan to the state Department of Transportation.*
- *Participate in policy decisions.*  
*Create a Regional Transportation Policy Board to permit local employers, transit agencies, ports, and the like to participate in policy decisions. s7*  
*Establish level of service standards for state transportation facilities that are not of statewide significance.*  
*Include highways of statewide significance. (WSDOT has the responsibility for setting the level of service standards on these facilities.)*
- *Develop guidelines and principles for the development and evaluation of transportation elements of local comprehensive plans. Certify that local transportation elements are consistent with the adopted regional plan.*

- *Prepare transportation strategy to guide the preparation of the regional transportation plan. 58*

The teeth of the Regional Transportation Planning Organization is found in several provisions:

- *The organization must certify that within its jurisdiction the comprehensive plan of each locality planning under the GMA is consistent with the regional transportation plan and countywide policies, and that the regional plan is consistent with the county-wide policies. 59*
- *The regional plan shall specifically address existing or anticipated planning projects which affect more than one jurisdiction; or in which the impacts could be mitigated by adhering to the regional plan. 6D*
- *All transportation projects within the region which affect regional facilities "must be consistent" with the plan. 61*
- *The regional plan must be based on "least-cost planning" and identify the most cost-effective facilities, services, and programs. The plan must identify facilities and programs aimed toward an integrated regional transportation system. The plan must include a financial plan that demonstrates how the plan can be implemented. And the plan must make assessments necessary to preserve and use efficiently the existing regional transportation system. 62*
- *All six year transportation programs and transit development programs must be consistent with the county's or city's adopted comprehensive plan. (This applies to all counties and cities.)*

## 2) Local Agency Coordination with GMA Plans

Original GMA legislation required all "special districts" (except ports and municipal airports) to conform with state policy in their land use activities, including capital budget decisions. These special districts also had to comply with the comprehensive land use plan of the county or city having

jurisdiction in the area where the activities occur. The Governor vetoed this requirement, however, because the exemptions for port districts and municipal airports were unacceptable.<sup>63</sup>

Despite the lack of required consistency under the GMA, special districts may find their large scale, regional projects approved more swiftly if the projects are identified in local community plans. This is done through the process of identifying essential public facilities. Recent judicial statements have emphasized the need for certainty and adequate standards for measuring a project against a plan.<sup>64</sup> Communities may want to consider specifically designating facilities critical to special district or state agency operation during the comprehensive planning process. At the very least, the community should identify some locational or objective criteria for measuring conformance.

In 1991, the Legislature added state agencies to those required to plan in conformance with local comprehensive plans.<sup>65</sup>

## 3) Essential Public Facilities

Each planning community is required to create a process for identifying and siting essential public facilities. Such facilities include those facilities that are typically difficult to site, such as:

- *Airports*
- *State educational facilities*
  - *State and regional transportation facilities*
  - *State and local correctional facilities*
- *Solid waste handling facilities*
- *Inpatient facilities, including substance abuse, mental health, and group homes.*<sup>66</sup>

The requirement to site "essential" public facilities raises the question of what obligation a county or city has to provide for the needs of smaller, special purpose districts. The issue is whether a city or county, within its own jurisdiction, may bar or substantially limit a project planned by a special purpose government or state agency.

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**Courts have ruled that special districts must conform to the requirements of the locality in which they are developing.<sup>67</sup> Further, a community may preclude incompatible uses from certain zones, so long as it makes "reasonable provision" within the larger community for the facilities necessary to operate the special district.**

**Thus, a city or county could require sewer and water districts to locate essential facilities within areas of appropriate zoning, such as commercial or industrial, rather than residential areas.<sup>68</sup> At the very least, a community may place reasonable restrictions on a project to assure compatibility or to mitigate impacts. The community may be limited in its actions, however, because a special district must be allowed to provide its statutorily mandated services reasonably within the district boundaries. If a sewer district needs a sewer plant in a residential area to meet statutory obligations to its constituency, for example, the community may not use zoning or its comprehensive plan to frustrate that purpose.<sup>69</sup>**

**The Supreme Court uses the language of due process and reasonableness in reviewing such cases. When a subordinate jurisdiction requires a particular facility to accomplish its tasks, a municipal ordinance that forbids (rather than reasonably conditions) such uses, would be examined closely to determine whether the prohibition is, in fact, "reasonable."<sup>70</sup>**

**Courts have also ruled that unsubstantiated, generalized community fear is an irrelevant consideration when deciding where to site essential public facilities.<sup>71</sup> The Legislature recognized that the location of essential public facilities might encounter local opposition. It therefore enacted RCW 37.70A.200(2), which provides that no local comprehensive plan or development regulation may preclude the siting of such facilities.<sup>72</sup> The Central Puget Sound Growth Management Hearings Board has also ruled that a local government plan may not, through policies or strategy directives, effectively preclude the siting or expansion of an essential public facility, including its necessary support activities.<sup>73</sup>**

**The GMA does not define all essential public facilities. The statute states that they are "facilities that are typically difficult to site."<sup>74</sup> The Procedural Criteria further assist local**

governments with the process for siting essential public facilities.<sup>75</sup>

All special purpose government agencies should identify which facilities are "essential" to their legislative purpose. Working with cities or counties, as appropriate, these junior districts can assure that these facilities will be integrated into the city and county comprehensive plans, and will fit in the larger community planning program.

**4) Regional Service Delivery Agreements**

Sometimes providing various government services extends over jurisdictional boundaries. In order to establish which jurisdiction should provide the government service, counties, cities and special districts are encouraged to develop local service agreements.<sup>76</sup> In addition to specifying the jurisdiction responsible for providing the service, the local governments can transfer certain revenues among them.<sup>77</sup>

**3. Comprehensive**

**Process Under Growth Management  
Plans: The Heart of the Redefined Planning**

A community's comprehensive plan addresses the central issue of how it will balance and resolve competing demands on its public facilities and resources, as well as locally competing goals and objectives. Comprehensive plans are detailed later in this chapter, but the key priorities in comprehensive planning are as follows:

**KEY PRIORITIES IN COMPREHENSIVE PLANNING**

All comprehensive plans are to be measured against the goals and requirements of the Growth Management Act.

All comprehensive plans must comply with county-wide planning policies.

All official controls and developmental and environmental regulations consistent with comprehensive plans must be

All comprehensive plans must be internally consistent.

All comprehensive plans must be coordinated and consistent with the comprehensive plans of adjacent jurisdictions.

- All developments, including private and public, at every level of state, local, general purpose, and local special purpose, must be measured for consistency with the comprehensive plan.

All development must be served by adequate public facilities that are either in place or planned to be in place within a reasonable period--the concurrency doctrine.

Any community which cannot demonstrate the financial ability to accommodate its planned growth patterns must reexamine its land use patterns or its financing plans.

A comprehensive planning program (with its conforming implementing regulations) must constantly weigh the community's financial ability to support development against its minimum population obligations and need for environmental protection.

This ongoing balancing act is the heart of the growth "management" process.

Comprehensive planning is the cornerstone of the growth management process. Past plans tended to be visionary guides to community desires, but were usually not reflected in the regulations and facilities that drove the community's day-to-day development. In some communities, there was no requirement for a plan beyond a map that conveyed a sense of orderly development.<sup>7g</sup>

The centerpiece of the new growth management plans is the "future land use map." All of the elements of the plan must be internally consistent and consistent with the vision expressed by the future land use map.<sup>79</sup>

Achieving internal consistency in the comprehensive plan is especially challenging. Communities are now required to include elements that often involve competing goals, while balancing other considerations in the final document. Following is a summary of a community's mandatory planning elements, including key points to be considered.

### **Mandatory Comprehensive Planning Elements for Growth Management**

#### **a. Land Use**

*A land use element-including land uses and densities, resource protection, population projections, and public facilities. In addition, the land use element is required to consider protection of public water supplies, storm water (both in the community and in adjacent communities), and 'provide guidance for corrective actions to mitigate or cleanse those discharges that pollute waters of the state. "g<sup>0</sup>*

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The land use element is a guide for orderly development of the community (the purpose of the old plans). This element, more than any other, describes the "big picture"-how a community chooses to balance the competing goals of the GMA. Key components of the land use plan will be maps showing the future shape of the community and how its essential components will be distributed. Resource lands, critical areas (where known), open space corridors, residential, commercial, industrial, and major public and private facilities should all be addressed.

In order to ensure that compact urban development occurs inside of UGAs, local communities must designate residential densities that are sufficiently high for urban development and the efficient provision of services. Providing for minimum densities will help to achieve actual build out at designated urban densities, encourage infill and redevelopment, and avoid sprawl. Ensuring urban densities will direct growth to areas where urban services such as sewer and public transit may already be available and can be provided more efficiently. One Growth Management Hearings Board has stated that it will not accept densities within urban growth areas as low as one unit per

acre or lower.<sup>81</sup> Another Board has stated that four net units per acre or higher constitutes compact urban development and that it will carefully scrutinize lower densities within urban areas.<sup>82</sup>

The land use element is also at the forefront of community clean water regulation, including surface water and storm water from point and nonpoint discharge sources. The clean water component overlaps with state and federal regulations, including the National Pollution Discharge Elimination System (NPDES) authorized by the Federal Clean Water Act and administered by the state Department of Ecology; Hydraulic Project Approvals (HPAs) issued by the Washington State Department of Fish and Wildlife; and other water quality regulations. (See also Chapter 6, "Planning and Environmental Legislation.")

Clean water requirements have been mandatory in the comprehensive plan since 1984 and 1985, when the Legislature adopted two mandates. The first specifies ground water protection:

*The land use element [of a comprehensive plan] shall also provide for the protection of the quality and quantity of the ground water used for public water supplies.*<sup>83</sup>

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The second specifically controls runoff to Puget Sound:

***The land use element shall ...review drainage, flooding, and storm water runoff in the area and nearby jurisdictions and provide guidance for corrective actions to mitigate or cleanse those discharges that pollute Puget Sound or waters entering Puget Sound. 84***

Since municipal storm systems and roadways are major sources of point and nonpoint runoff in urban areas (both for surface and ground water) the comprehensive plan becomes a self-examining and policing mechanism. Potential pollution sources must be identified and targeted for control through the comprehensive planning process, and coordinated with the community's existing programs.

#### b. Housing

***A housing element-ensuring the "vitality and character of established residential neighborhoods" which inventories existing and projected housing needs, creates a policy base for encouraging housing, and identifies "sufficient land" for all types of housing, including low income, manufactured, multifamily, group homes, and foster care facilities and makes adequate provisions for all of the economic segments of the community. 85***

Housing development is one of the greatest challenges facing our communities.

**COMMUNITY CHALLENGE:** How does a community protect the vitality and integrity of existing residential neighborhoods, while providing for greater densities? Higher density is needed to meet transit objectives, to meet affordable housing demands, and to provide services in a cost-effective orderly manner. The challenge becomes difficult when existing lowdensity, single-family neighborhoods occupy much of the community's prime and easily developed land. Available land remaining to meet these goals is often subject to competition from other important goals, such as wildlife and wetland protection, given equal emphasis under the GMA. Early community

involvement and neighborhood-friendly design can help to integrate new higher density housing into existing neighborhoods.

Under the GMA, local governments are required to provide for group homes in the housing element of their comprehensive plans.<sup>86</sup> The term group home applies to many types of residences. Usually the term is used for homes where the residents live and receive care or supervision.

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The state has preempted local jurisdictions from including prohibitions against adult family homes, facilities for four to six developmentally disabled adults or senior adults in areas zoned for single-family residences.<sup>87</sup> The definition of adult family homes includes homes that are operated by non-resident providers.<sup>88</sup>

In 1993, the state Legislature passed the Washington Housing Policy Act (WHPA).<sup>89</sup> WHPA, now part of the planning process, fosters safe and affordable housing. It requires local governments to incorporate recommendations for accessory apartments if they are a county planning under the GMA, if they are a city with a population that exceeds 20,000, and if they are a county with a population exceeding 125,000. These recommendations, developed by CTED and the Housing Advisory Board,<sup>90</sup> encourage development and placement of accessory apartments in areas zoned for singlefamily residential use.<sup>91</sup>

The WHPA also prohibits including in ordinances, development regulations, zoning regulations, or other official controls any provision that treats residential property housing the handicapped differently than similar structures housing a family or other unrelated individuals.<sup>92</sup> It mirrors language from the federal Fair Housing Act that prohibits discrimination because of race, color, religion, sex, handicap, familial status, and national origin. All group homes, because they are used as residences, count as a dwelling under these federal and state laws. This means that the prohibition against discrimination applies. These protections apply against discriminatory zoning, land use restrictions, or restrictive covenants.<sup>93</sup>

#### **c. Capital Facilities Planning**

*A capital facilities plan-including inventories of existing facilities showing both "location" and "capacity, " a forecast of future needs, the proposed location and capacity of new facilities, and a six year plan to finance such facilities from identified funding sources. Where 'probable funding" falls short of meeting "existing needs" the land use element is to be reassessed to "ensure that the land use element, the capital facilities plan element, and the financing plan within the capital facilities plan element are coordinated and consistent. "94*

The link between a community's financing capability, adequate capital facilities, and the ability of these facilities to

meet "existing needs" based on the land use plan is at the heart of growth management planning. Finding the appropriate balance among these competing factors poses one of the greatest challenges to planning communities.

**COMMUNITY CHALLENGE:** The challenge in capital facilities planning is to identify affordable and appropriate levels of service for the community. Levels of service measure the quality and quantity of services that will be delivered in a community. If service levels are too high, a community cannot afford to make needed improvements to substandard facilities. If service levels are set too low, the quality of life in the community could deteriorate. Levels of service reflect a community's values and willingness to pay for public facilities. That is why it is important to involve the community in setting levels of service in a meaningful way and for the public to have good information on what the effects of setting certain levels of service will be.

If population trends exceed a community's ability to provide capital facilities, it must reexamine land use plans to reestablish a reasonable balance. Adequate and timely availability of capital facilities is one component of the concurrency doctrine covered later in this chapter.

#### d. Utilities

*A utilities element-including an inventory and "general" location, 'proposed location, " and capacity of existing and proposed utilities, including natural gas, electricity, and telecommunications. 95*

The utilities section requires a community to provide adequate utility capacity to support its planned growth. Effective comprehensive planning depends on how well the community has done its local utility planning; and on planning by private and public utilities, which may or may not be synchronized with local community plans.

**COMMUNITY CHALLENGE:** The utility planning requirement raises an important issue in identifying future "general locations" of such facilities. If a property is zoned for a utility corridor (be it streets or other facilities), courts may impose an obligation to acquire or forego the designated facility sites. A community may not identify a private site for public use in planning documents, and later refuse to permit development for other uses without acquiring the site. (See the discussion of appropriation for public purpose in the "taking" section, Chapter 4.)

Further, utility companies and communities must coordinate local utility planning to reflect population shifts and allocations. This will assure that planned utilities can accommodate future growth. Without coordination, a community may be unable to demonstrate that its facilities are "adequate" to meet projected growth. Such a finding would