

## The Legal Basis of Land Use Planning and Open Government in Washington State

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## A Short Course on Local Planning

- Washington's Framework For Land Use Planning
- Constitutional Protections and Takings
- Local Land Use & Decision Making
- Open Government Laws in Washington State  
(Open Public Meeting and Records Acts)

## Early Framework for Land Use Planning

### *Village of Euclid v Ambler Realty Co. (1926)*

**Legitimized validity of existing laws  
regulating:**

Height, bulk & scale  
Open spaces  
Nuisances

**Declared police power authority for:**

Horizontal use districts (i.e., "zoning")  
Zoning maps  
Variances

## Constitutional Basis of Planning Authority in Washington

Planning is recognized as a legitimate exercise of  
the **Police Power—the power to protect public  
health, safety, and welfare**

*Any county, city, town or township may make and  
enforce within its limits all such local police, sanitary,  
and other regulations as are not in conflict with  
general laws.*

Washington State constitution  
(Article 11, Section 11)

## Early Washington Laws to Enable Planning

- The Planning Commission Act  
RCW 35.63 and RCW 35.63A (Code cities,  
1976)
- The Planning Enabling Act  
RCW 36.70 (Counties, 1935)
  - Allowed planning through a planning commission.
  - Required comprehensive plan with land use and circulation elements.
  - Created roles: staff, Board of Adjustment, Hearing Examiner, City Council.

## CONSTITUTIONAL PROTECTIONS AND TAKINGS

It is well established that every person has the right to use his property in his own way and for his purposes, *subject only to the restraints necessary to secure that common welfare.*

HAUSER V. ARNESS, 44 WN.2D 358 (1954)

The basic rule in land use law is still that, absent more, an individual should be able to utilize his land as he sees fit.

*Norco Construction v. King County*,  
97 Wn.2d 680 (1982)

## Due Process

- Procedural Due Process
  - The right to know about proposed changes together with the opportunity to be heard.
- Substantive Due Process
  - The rules are reasonable and appropriate (not vague).
  - The rules have a reasonable connection to the project's impact.

## Avoiding Due Process Challenges

- ☑ The regulation is for a legitimate public purpose
- ☑ The regulation is appropriate to accomplish the purpose
- ☑ The regulation is reasonable to meet the purpose
- ☑ The regulation is clear and easy to apply at the permit level

## Other Constitutional Protections

- Freedom of Religion
- No Gifting of Public Funds/Property
- Equal Protection

## Takings

### U.S. Constitution (Fourth Amendment)

*...nor shall private property be taken for public use without just compensation...*

### Washington Constitution (Art. I, § 16)

*Private property shall not be taken for private use...*

*No private property shall be taken or damaged for public or private use without just compensation having been first made....*

## Types of Takings

1. Physical Takings—Appropriation of land/property
2. Regulatory Takings—Deprivation of all economic use
3. Exactions & Dedications—Nexus AND Proportionality
4. Reasonable Use Exceptions—Critical areas
5. Partial Takings—Economic Interests/Investments

## Warning Signs of a Taking

- The regulation or action results in a **permanent or temporary physical occupation** of property
- The regulation or action deprives the owner of **all economically viable uses** of the property
- The regulation or action denies or substantially diminishes a **fundamental attribute** of property ownership
- The regulation or actions has a **severe impact** on the landowners **economic interest** and diminish **reasonable investment backed expectations**

## Impact Fees are not Takings

**RCW 82.02.020** Generally prohibits “any tax, fee, or charge” on the construction of buildings or development, subdivision, classification, or reclassification of land.

### Exceptions:

- 82.02.050 allows GMA planning cities and counties to **impose impact fees**.
- Also, exception for “**voluntary agreements**” that allow a payment in lieu of a dedication of land or to mitigate a direct impact that has been identified as a consequence of a proposed development, subdivision, or plat.

## Conditions on Development are not Takings (Exactions) IF:

- Establish the proposed development will create or exacerbate a problem;
- **Identify a** condition is designed to address the problem;
- Show that the condition will **solve or alleviate** the problem, AND
- Show that the proposed condition is “**roughly proportional**” to and shares an “essential nexus” with the problem created or contributed by the proposed development.

## Local Land Use and Decision Making

### EARLY ON, “PLANNING” DECISIONS WERE OFTEN MADE AT THE SUBDIVISION LEVEL

The City legislative body . . . shall determine if appropriate provisions are made for...*the public health, safety, and general welfare:*

for open spaces, drainage ways, streets, alleys, other public ways, water supplies, sanitary wastes, parks, playgrounds, sites for schools and school grounds, and shall consider all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who walk to and from school,

. . . and determine whether the *public interest will be served by the subdivision and dedication.*

RCW 58.17 (1969)

## Statewide Land Use & Planning Laws

### The **State Environmental Policy Act (SEPA)**

Environmental review of land use actions (1971)

- (almost) Every action reviewed for significant adverse impacts on the *built* and *natural* environment
- Opportunity for public review of each proposed action (project and non-project)
- Condition approval on mitigation measures to minimize impacts (DS=EIS/MDNS/DNS)

## Statewide Land Use & Planning Laws

### The **Growth Management Act (GMA)**

Comprehensive planning framework, especially for Washington's more populous counties and cities. (1990)

- Preservation of farm and forest lands.
- Protection of environmentally sensitive "Critical" areas.
- Planning to accommodate 20-year projected population.
- Planning to serve designated urban growth areas with needed water, sewer, parks and roads.
- Ensuring facilities provided concurrent with development.

## Statewide Land Use & Planning Laws

### The **Shorelines Management Act (SMA)**

Planning for shorelines of the state (1971)

- Maintaining economic use and preservation of natural shorelines.
- Planning for public access

## The Local Planning Pyramid



## Land Use Planning Decisions

1. **Legislative (Long Range Planning)** – Planning Commission developing and adopting policies and development regulations. (*Making the Rules*)
2. **Quasi-Judicial (Current Planning)** – A board reviewing and making recommendations or decisions on permit applications. (*Acting as a judge*)
3. **Administrative (Current planning)** – Staff using development regulations to permit development of land. (*Applying the rules*)

## Project Review Procedures:

### Administrative

- Pre-Application
- Complete application must be submitted (vesting).
- Local review and decision required within tight timelines.
- Opportunity for public comment

### Quasi-Judicial

- One Open Record Hearing
- One Closed Record Appeal
- ...Judicial Appeal—Land Use Petition Act

## Land Use Concepts

### Vesting

Entitlement to Develop Land Under Laws in Effect at Time of Complete Application  
Common Law, RCW 19.27.095

### Moratoria

"Swift Pause" + Hearing + Studies  
Common Law, RCW 36.70A.390

### Arbitrary & Capricious Action

Common Law, RCW Chapter 64.40

## OPEN GOVERNMENT LAWS

Open Public Meetings Act

Public Records Act

## Open Public Meetings Act (OPMA) RCW Chapter 42.30

"The people of this state do not yield their sovereignty to the agencies which serve them.

The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know.

The people insist on remaining informed so that they may retain control over the instrument they have created."

RCW 42.30.010 (1971)

## Open Meeting Requirement

*All meetings of the governing body of a public agency **shall be open and public** and all persons shall be permitted to attend any meeting of the governing body of a public agency, except as otherwise provided in this chapter.*

RCW 42.30.030

## What is a "Meeting"

A meeting occurs when the public agency takes action, including:

- Public testimony
- Deliberations
- Discussions
- Considerations
- Review
- Evaluations
- Final Action

Final Action is a decision or vote by the board or by a committee acting on behalf of the board.

- Final action **must** be taken in public.

## What is a "Governing Body"

"Governing body" means the **multimember** board, commission, committee, council, or other **policy or rule-making body** of a public agency, or any committee thereof when the committee acts on behalf of the governing body, conducts hearings, or takes testimony or public comment.

RCW 42.30.020(2)

## Quorum & Committees

- Quorum generally is the majority of the governing body
- If Governing body has delegated authority to committee to take action, conduct hearings, and take testimony then even if quorum of “governing body” isn’t present still must comply with OPMA

## Meetings in Disguise

**Email conversations, serial phone calls, texting and messaging** involving quorum and city/county business will probably be considered a meeting.

- Only two-way communications a violation.
- Parties “cc’d” count towards quorum.
- Staff emails ok so long as no two-way communication amongst governing body.
- Emails are public records subject to disclosure.
- Emails are public records subject to retention.

A quorum at a parking lot, late night dinner, cocktail party, or site visit could be considered a meeting.

## It is easy to Comply with OPMA

- Provide notice of meeting.
- Public has right to attend.
- Make minutes publically available.

## Meeting Notice

- All regular meetings must be advertised as to the time, place and agenda items.
- Effective June 12, 2014, the agenda of all regular meetings must be available on line 24 hours in advance of a meeting, unless
  - Agency is without a website
  - Agency with fewer than 10 FTE
  - Agenda may be modified
- 24 Hours Notice of Special Meetings to:
  - Each Member of Governing Body
  - Local Media that has request for notice on file
  - Posted to Website
  - Prominently displayed at main entrance
  - Exception for Emergencies RCW 42.30.080(4)

## Public’s Right to Attend

- Does not require public comment period
- Does not require right to testify
- Does not require right to disrupt
- Does not require signing in or providing any other information as condition to attending
- Does not preclude recording (unless disruptive)

## Executive Sessions

- **Agencies may hold an executive session** during a regular or special meeting **only for limited purposes listed in OPMA.**
- Before convening the executive session, the presiding officer must announce **the purpose and the time the executive session is over.** RCW 42.30.110 (2)
- **Discussion** may take place behind closed doors, but **decisions** must occur within a meeting.
- **Secret ballots** are not allowed. RCW 42.30.060



### Continuing Meetings

- Governing body may continue meeting to specific time and place.
- Less than a quorum may continue. Clerk may continue if no member present.
- Notice of time and place shall be conspicuously placed at or near door to meeting room.
- Notice shall be provided as for special meeting.

### Penalties for Violating the OPMA

- A court can impose a \$100 civil penalty against each member (personal liability).
- Court will award costs and attorney fees to a successful party seeking the remedy (except for failure to post agenda on-line).
- Action taken at meeting can be declared null and void (except for failure to post agenda on-line).
- Loss of the public trust.

RCW 42.30.120; RCW 42.30.130; RCW 42.30.060

### OPMA Risk Management Tips

- Avoid even the appearance of an OPMA violation.
- Socializing: Be careful when a quorum of your board is together outside of a meeting. Don't sit together. Don't talk business.
- Group travel: Bus trips and site visits may appear as meetings. If part of your work, notice as a meeting. If not, don't do it.
- Notice: When in doubt, treat it like a meeting and do the notice!

[www.atg.wa.gov/OpenGovernmentTraining.aspx](http://www.atg.wa.gov/OpenGovernmentTraining.aspx)

### Public Records Act (PRA) RCW Chapter 42.56

- Public records of government agencies are presumed open.
- Purpose: The "free and open examination of public records is in the public interest, even though such examination may cause inconvenience or embarrassment to public officials or others."

RCW 42.56.550 (3)

### A Public Record is...

"any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics."

RCW 42.56.030

### Avoiding PRA Violations

- Know the law. Staff are trained about the PRA's requirements and will respond to a records request.
- Create clear records. Know when you are creating a public record, create it clearly.
- Protect the records. Ensure there are agency systems in place to file, track, retrieve and preserve records, especially with changes in personnel.

### Avoid making private matters public...

- Electronic records are public records.
  - E-mails concerning agency business, sent from a private email or personal device should be copied to an agency server. All email should be saved using specific folders based on how long the law says they must be kept.
- Avoid making records that you don't want to see on the front page of the paper.

WAC 434-662-150

### More Resources

Additional open government training is required for all elected officials and local public records officers. View the video training at:  
[www.atg.wa.gov/OpenGovernmentTraining.aspx](http://www.atg.wa.gov/OpenGovernmentTraining.aspx)

#### Public Records Retention

[www.sos.wa.gov/archives/recordsretentionschedules.aspx](http://www.sos.wa.gov/archives/recordsretentionschedules.aspx)



## LAND USE PLANNING PROCESSES IN WASHINGTON

**Presenter**  
**Chris Branch**  
Community Development Director  
City of Oroville

**President**  
Planning Association of Washington

## SHORT COURSE THE SOURCE

For the sake of consistency and compatibility with The Short Course on Local Planning (version 5-1) most of the written information presented in this powerpoint is taken directly from the Short Course on Local Planning Guidebook. The guidebook was prepared with the involvement of a number of planners and attorneys participating in its development, including peer review.

TIP: Use the Guidebook to find detail on the subjects presented in tonight's presentation.

## IMPLEMENTATION OF YOUR COMPREHENSIVE PLAN

- Development regulations
- Capital facility spending
- Other tools

## IMPLEMENTATION OF YOUR COMPREHENSIVE PLAN Development Regulations

- Zoning
- Subdivision
- Critical Areas Regulations
- Floodplain Management
- Shoreline Regulations
- Building Code
- SEPA/NEPA
- Development Standards

## IMPLEMENTATION OF YOUR COMPREHENSIVE PLAN Zoning

- Typically a map consistent with the Comprehensive Plan portioning a jurisdiction into districts to address land use needs, and the potential for land use conflict.
- Text specifies permitted uses of property and the bulk, density coverage,
- and any setback limitations for any property

## IMPLEMENTATION OF YOUR COMPREHENSIVE PLAN Zoning

- Zoning controls are placed throughout the community. They apply whether or not a property owner seeks to use or modify the land in a particular fashion.
- Zoning controls may be outright use and standards, or may require a process requiring site specific approval (e.g., Special use permits, Conditional Use permits, Planned Developments, Zoning Contracts)

## IMPLEMENTATION OF YOUR COMPREHENSIVE PLAN

## Rezoning and Text Amendments

- Rezoning is a map amendment. It may be legislative or quasi-judicial.
- It must be consistent with the Comprehensive Plan, or the process for an amendment must be made to the Comprehensive Plan must be conducted.

OPINION: IT IS A FAR BETTER PROCESS IF THE COMPREHENSIVE PLAN AMENDMENT IS KEPT SEPARATE.

## SUBDIVISION

- Development and subdivision regulations come into play when a property is proposed for change or "development"
- Plats, short plats, binding site plans.
- Zoning is a primary consideration in the subdivision of land.

## SUBDIVISION

- "Subdivision" is the division or redivision of land into five or more lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership, except as provided in RCW 58.17.060 Short plats and short subdivisions which allows to increase the number of lots to nine(9).

## SUBDIVISION

- **Roads, Parks, and Open Space**
- The primary purpose of plats is to clearly define public and private rights with respect to roads, parks.
- Dedications to public use must be spelled out clearly on the final plat, although any ambiguity with respect to roads will favor public roads. **The opposite appears to be true with respect to parks and open space.** The presumption appears to be that a park identified on a plat is private (for the benefit of the lot owners only), unless a clear intent is expressed to dedicate the park to public use.

## Exemptions from formal platting requirements:

- Cemeteries;
- Land divisions creating parcels over five acres in size (as measured to the center of the road);
- Land divisions made by wills or the laws of descent;
- Industrial parks when such parks are covered by a binding site plan review process;
- Mobile home parks when such parks are covered by a binding site plan review process;
- Boundary line adjustments creating no new lots; and
- Condominiums if a binding site plan has been approved

## SHORT PLATS

- "Short subdivision" is the division or redivision of land into four or fewer lots, tracts, parcels, sites, or divisions for the purpose of sale, lease, or transfer of ownership. However, the legislative authority of any city or town may by local ordinance increase the number of lots, tracts, or parcels to be regulated as short subdivisions to a maximum of nine.

## SHORT PLATS

- Simplified procedure over long plats - summary administrative process.
- SEPA Exemption unless on lands covered by water
- may contain requirements that are the same or wholly different than those governing preliminary plats.
- **must be** processed within 30 days.
- typically contain a map identifying the lots to be created and a declaration dedicating right-of-way or other required approval conditions.
- Short plats may not be divided again for five years without processing a long plat.
- **Short plats must be filed with the county auditor to be effective.**

## Long Plats

- Extensive process governed by RCW 58.17.
- Quasi-judicial decision(s) involved.
- Option through Short Plats to except up to 9 lots
- A plat is processed in two phases: preliminary plat and final plat

## Long Plats – Preliminary Plat

A preliminary plat is the conceptual approval plan. It shows the proposed development and amenities, and is subject to a public hearing before a planning commission or a hearings examiner and the approving authority.

- **A hearing to determine:**
  - *"(a) If appropriate provisions have been made for, but not limited to, the public health, safety, and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and shall consider all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students...;*
  - *and (b) whether the public interest will be served ... "RCW 57.110(1).*

## Long Plats – Final Plat

- To file a final plat, a developer must construct or bond all required improvements of the preliminary plat, and submit a final plat for approval before filing with the county auditor.
- Final plats are "as-built" drawings of the plat as constructed. They must conform to the approved preliminary plat, showing lots, streets, easements, and all other elements required as conditions of preliminary plat approval. The local administrative offices must verify that the final plat meets all conditions and statutory requirements. Once necessary signatures have been obtained, the approving authority approves the plat. The plat may then be filed with the county auditor, and the developer may offer the lots for sale.

## Binding Site Plan

A drawing to a scale specified by local ordinance which:

- Identifies and shows the areas and locations of all streets, roads, improvements, utilities, open spaces, and any other matters specified by local regulations;*
- (b) contains inscriptions or attachments setting forth such appropriate limitations and conditions for the use of the land as are established by the local government body having authority to approve the site plan;*
- (c) contains provisions making any development be in conformity with the site plan.*

## Binding Site Plan

- The Legislature has created three exemptions from the subdivision law for parcels developed through binding site plan review. The exemptions apply when the city, town or county has approved a binding site plan for use of the land according to local regulations:
  - 1) Divisions of land into lots or tracts classified for industrial or commercial use;
  - 2) A division for the purpose of lease, when no residential structures other than mobilehomes or travel trailers are permitted on the land; and
  - 3) A division as a result of subjecting the property to the Washington Condominium Act.



## Critical Areas Ordinance

- "Critical areas" include the following areas and ecosystems: (a) Wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas. [[RCW 36.70A.030\(5\)](#)]

## Flood Damage Prevention Ordinance

- Federal Emergency Management Administration
- Implementation through Dept of Ecology
- Local ordinance implementing the National Flood Insurance Program that includes development standards in floodprone areas.
- Regulations applicable in the floodway and 100-year floodplain.

## SHORELINE MANAGEMENT

- Implemented through local Shoreline Management Programs;
- Consideration for permitting in Shoreline jurisdiction (i.e., 200 feet from the Ordinary High Water Mark or floodway boundary, or the entire 100-year floodplain)
- Policies should be included in the Comprehensive Plan.

## NON-REGULATORY DEVELOPMENT TOOLS

- CONSERVATION EASEMENTS
- DEVELOPMENT GUIDELINES
- OTHERS.....

## How Do We Decide?

- **City councils and boards of county commissioners**
  - set policy, make final decisions on plans and land development permits, adopt ordinances, approve budgets for planning, and appoint members of the planning commission.

## How Do We Decide?

- **Planning commissioners are:**
  - volunteer citizens with legal responsibility to review plans and projects.
  - typically do not make final decisions, but must make recommendations before elected officials can adopt comprehensive plans (*Legislative decision*).
  - non-partisan appointed officials who represent the general values of the community in land use decision making.
  - serve as a sounding board for new ideas, promote community interest in planning, and furnish leadership in formal citizen participation programs.

## How Do We Decide?

- Planning Staff:
  - May be in-house or contracted
  - Bring technical expertise and knowledge to the land use planning process (e.g., Staff Reports)
  - Are advisers to elected officials and planning commissions.
  - conduct studies,
  - administer planning regulations (such as zoning and subdivision ordinances)
  - resource for the public on land use planning activities.

## How Do We Decide?

- The Public Citizen Participation- **Citizen participation in the earliest stages of land use planning will save time and agony for officials and planners in the long run.**
  - An inventory includes an assessment of who the public includes
  - Identify the methods to reach all sectors.
  - Convene the public for the conversations - not just public process.
    - Small town - small public participation plan
    - Big town (county) - more outreach strategies

## DECISIONS, DECISIONS

- Land Use Decision
  - Legislative
  - Administrative
  - Quasi-judicial
    - Administrator, Planning Commission, City Council, County Commissioners or Council, Hearings Examiner, Hearings Boards - Courts (judicial)

## Capital Facilities Planning

- Where the “rubber hit the road”, or “where the planners meet the financial officers”...or “the reality meets the dream”.
- In order to implement the Comprehensive Plan there are both public and private expenditures necessary to provide the necessary and appropriate infrastructure and services for the planned growth.

## Capital Facilities Plan

- Capital facilities plan includes 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.

## Capital Facilities Plan Components

- Transportation Plan includes 6 year street plan
- Water Plan
- Sewer Plan
- Buildings and Equipment
- Stormwater Plan
- Parks and Recreation Plan
- Housing Plan
- Solid Waste Plan
- All Hazard Mitigation Plan
- Others...

## Policies and requirements for Infrastructure

### EXAMPLE OF GMA STATUTORY REQUIREMENT:

At a minimum, a major industrial development must meet the following statutory criteria:

- •New infrastructure is provided for and/or applicable impacts fees are paid;
- •Transit-oriented site planning and traffic demand management programs are implemented;
- •Buffers are provided between the major industrial development and adjacent non-urban areas;
- •Environmental protection including air and water quality has been addressed and provided for;
- •Development regulations are established to ensure that urban growth will not occur in adjacent nonurban areas;
- •Provision is made to mitigate adverse impacts on designated agricultural lands, forest lands, and mineral resource lands;
- •The plan for the major industrial development is consistent with the county's development regulations established for protection of critical areas; and
- •An inventory of developable land has been conducted and the county has determined and entered findings that land suitable to site the major industrial development is unavailable within the UGA. Priority shall be given to applications for sites that are adjacent to or in proximity to the UGA.

(RCW 36.70A.365)

## GUIDANCE YOU CAN USE

- The Short Course on Local Planning is a reference guide useful to the most and least experienced planners, and/or interested citizens in Washington State.

<http://www.commerce.wa.gov/Documents/GMS-Short-Course-Guidebook-5-1.pdf>

- Municipal Research Services Corporation is an invaluable research tool for municipal government subjects including extensive planning information.

[www.mrsc.org](http://www.mrsc.org)


*"Good planning doesn't just happen..."*

Chris Branch, President  
Planning Association of Washington


[www.planningpaw.org](http://www.planningpaw.org)

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Department of Commerce  
Innovation is in our nature.



## Welcome to A Short Course on Local Planning

September 2014

## A Short Course on Local Planning




1. Comprehensive Planning under the Growth Management Act
2. Updating your Plan
3. Implementing your Plan

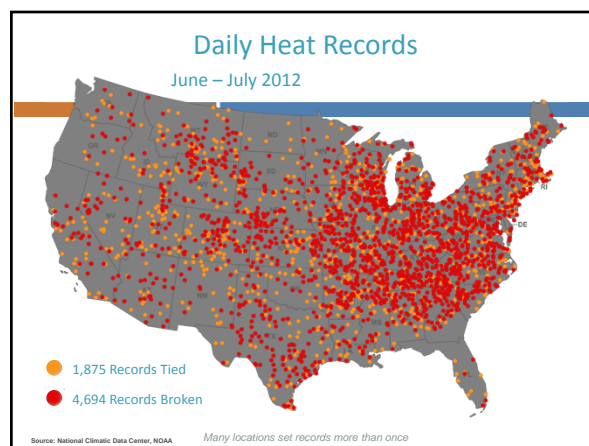
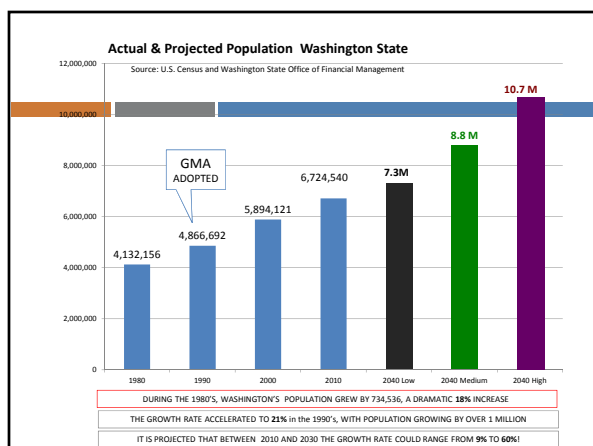
### Why Planning is Important

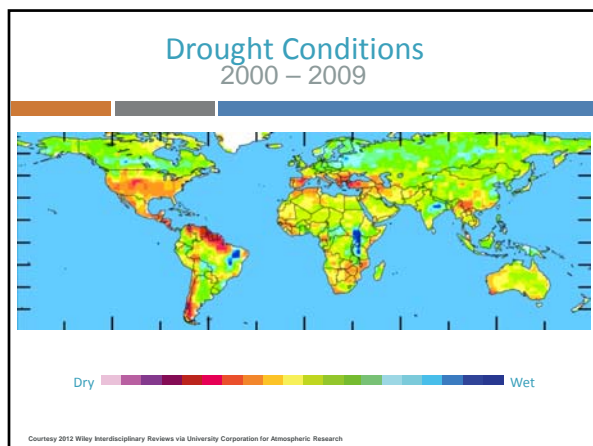
- **Protect and enhance the good things** about your community
- **Identify community needs** and agree on the best ways to meet them
- **Identify local spending priorities**
- **Build your sense of community** and your local economy
- **Enhance your regional community** by coordinating with neighboring cities and counties

**You got to be careful if you don't know where you're going, because you might not get there.**



Yogi Berra





### Washington's Major Land Use Laws

#### The State Environmental Policy Act (SEPA)

Environmental review of land use actions (1971)

#### The Shorelines Management Act (SMA)

Planning for shorelines of the state (1971)

#### The Growth Management Act (GMA)

Comprehensive planning framework, especially for Washington's more populous counties and cities. (1990)

### "Show Your Work" on GMA Actions

- **Actions of local governments are presumed valid;** however, when [UGA designations or expansions are] challenged **the record must provide support** for the actions the jurisdiction has taken; otherwise the action may be determined to have been taken in error – clearly erroneous. The Board will continue to adhere to the requirement that **counties must "show their work"** [Kitsap Citizens, 00-3-0019c, FDO, at 13.]
- [I]t is extremely important, in managing growth, **for the public to understand the basis for legislative policy decisions** and how they relate to the jurisdiction's goals and policies as articulated in its adopted plans and regulations. [Hensley VI, 03-3-0009c, FDO, at 26.]

### GMA Goals

- |                              |   |
|------------------------------|---|
| • Urban Growth               | • Natural Resource Industries             |
| • Reduce Sprawl              | • Open Space                              |
| • Coordinated Transportation | • Environment                             |
| • Affordable Housing         | • Public Participation                    |
| • Economic Development       | • Plan for Public Facilities and Services |
| • Property Rights            | • Historic Preservation                   |
| • Predictable Permitting     | • Shorelines                              |

### Conserving Natural Resource Lands

All counties **must designate and conserve natural resource lands** of long-term commercial significance

- Agricultural lands
- Forest lands
- Mineral resource lands



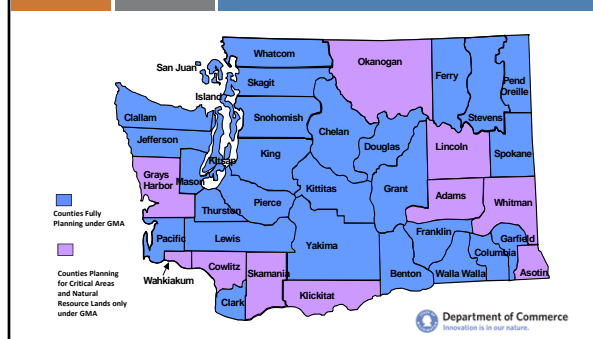
### Critical Environmental Areas

All jurisdictions **must designate and protect critical areas** using the **"best available science"**

- Wetlands
- Aquifers
- Fish and wildlife habitat conservation areas
- Frequently flooded areas
- Geologically hazardous areas



## Who Must Plan?



## Policy Hierarchy under the GMA

### GMA Goals

County-Wide Planning Policies

Local Comprehensive Plans

Development Regulations

Project Review

Department of Commerce  
Innovation is in our nature.

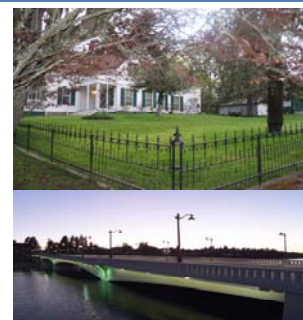
## Countywide Planning Policies

Regional framework to plan for countywide:

- Designate new urban growth areas and expansions
- Accommodate population growth
- Siting public facilities of a countywide or statewide nature
- Affordable housing needs
- Economic development

## Required Elements of the Comprehensive Plan

- Land Use
- Transportation
- Housing
- Utilities
- Capital Facilities
- Rural (counties only)



## Optional Elements of the Comprehensive Plan

- Economic Development
- Parks and Recreation
- Urban Design
- Human Services
- Historic Preservation
- Climate Change
- Sustainability
- Energy
- Sub-area plans
- Any other important topic



## Inputs to Local Plans

- Countywide Planning Policies
- UGA Boundary
  - Land capacity analysis
- Adopted plans, studies and regulations
  - Regional plans and studies, e.g., transportation
  - State/Federal regulations, e.g., endangered species, flood regulations
  - Other local governments' plans, e.g. special districts, neighboring cities and counties
- Public Input!!!

### Consistency

- **Internally consistent**
  - Is it physically possible? Do the plan elements all tell the same story?
  - Can adequate public facilities be provided with planned development? (concurrency)
- **Consistent within the regional context**
  - Countywide planning policies
  - Adjacent jurisdictions

### A Short Course on Local Planning



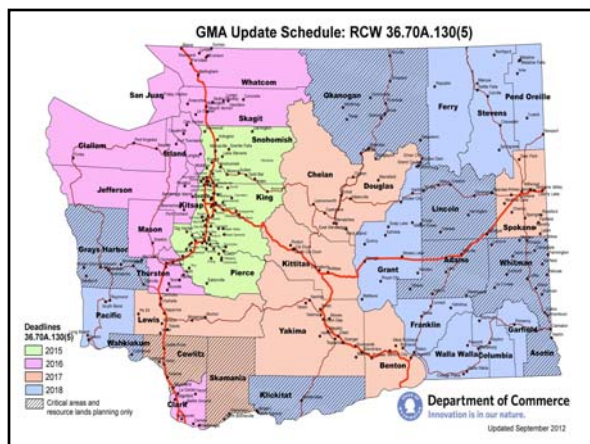
### Updating your Comprehensive Plan and Regulations

### Why Update your Plan

- Changes in state law or new regional policies
- Shifts in demographics
- infrastructure renewal or expansion
- ability to fund capital facilities
- Evaluate progress on meeting short term goals and agree on next priorities

### New Issues to consider in your update

- Impacts of **climate change**
- New forms of **development**
- changing **lifestyle preferences**
- Rapidly changing **technologies**
- Changing **demographics**, including immigration and aging
- New policy areas such as physical activity, local food production and sustainability



### Planning Process Summary

- **Plan and announce** comp plan update
- Review **existing plan** and update needs
- **Make a list** of items to include in the update
- Consider and evaluate **alternatives**
- Update **plan policies, maps and text**
- Review **implementation strategies**
- Update **regulations**
- **Adopt** by deadline

### Fine-Tuning Your Process

- **Things are OK:** Making adjustments and focusing on implementation
- **Divisions exist:** Rebuilding trust and clarifying policy
- **There's a fiscal pinch:** Reconsidering business model and setting priorities

### Some tips for a smooth update

- **Transparency:** Continuous and sincere.
- **Record:** Thorough and accessible.
- **Engagement:** Compelling, meaningful and easy.
- **Implementation:** Political base and support.
- **Examples:** Visits and photos.
- **Schedule:** Early start, time for adoption
- **Budget:** Realistic.
- **Available resources:** Commerce, MRSC, AWC, WSAC, etc.

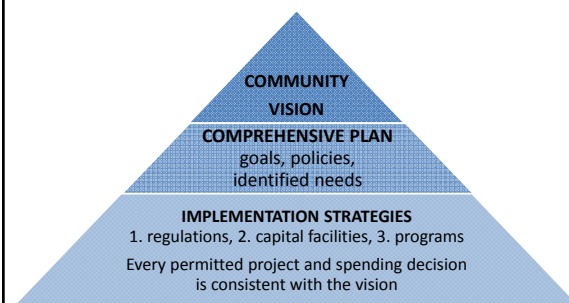


### A Short Course on Local Planning



#### Implementing your Comprehensive Plan

### The Planning Pyramid



1

### PLAN IMPLEMENTATION:

Through regulation of development projects



### What is a development regulation?

GMA definition:

"...the **controls** placed on development or **land use** activities by a county or city, including, but not limited to, zoning ordinances, shoreline master programs, official controls, planned unit development ordinance, subdivision ordinances, and binding site plan ordinances."

RCW 36.70A.020(7)

*Unlike plans, development regulations are not generalized policies, they are **specific controls** on how land may be used and developed.*

 Department of Commerce  
Innovation is in our nature.



## Development Regulations

- **Zoning:** consider *minimum* densities and *maximum* lot sizes for efficient land use.
- **Subdivision**
- **Street and utility standards-** including some county health regulations
- **Critical areas and shoreline regulations**
- **Other:** design standards, signs, landscaping, parking

2

## PLAN IMPLEMENTATION:

Through public capital projects and operating expenditures



## Capital Planning - Streets, utilities, schools, community buildings, etc.

- **Inventory existing facilities,**
- Establish levels of service
- Project needs (typically based on population growth)
- Finance plan.
- **Continue to maintain and operate** facilities and services

## Concurrency

- **Adequate public facilities are available when the impacts of development occur**
  - “Adequate” means capacity to serve development without decreasing LOS below locally established minimum
- **Required for transportation**
  - 6 years from the time of development
- **Optional for other services** – sewer, water, utilities, parks, fire, police

3

## PLAN IMPLEMENTATION:

Through volunteer programs or partnerships



## Other Methods of implementation

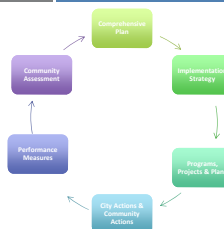
- **Interlocal agreements**
- **Planned action** (Upfront environmental review of a sub-area)
- **Transfer of development rights**
- **Incentives** such as tax exemptions for community benefits such as Open Space or Multifamily Housing
- **Impact fees**
- **Concurrency management**
- **Streamlined development process** for specific areas or types of development
- **Public/private partnerships**



## Successful Implementation

- **Regulations** that are clear and flexible and reflect the goals of the plan
- **Incentives** to encourage the type of development envisioned in the plan
- An **open process** for reviewing development proposals against the plan
- **Leadership** involvement at all levels
- **Track and measure** results

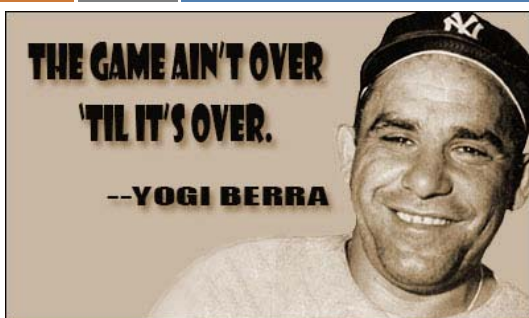
## Where Does an Implementation Strategy Fit?



*A strategy for implementation will set out a path for accomplishing the actions in the updated Comprehensive Plan, and align the programs, projects, and plan processes carried out by the City and its community partners.*

City of Olympia | Capital of Washington State

## It's Never Too Early or Too Late to Plan



## Thank you!

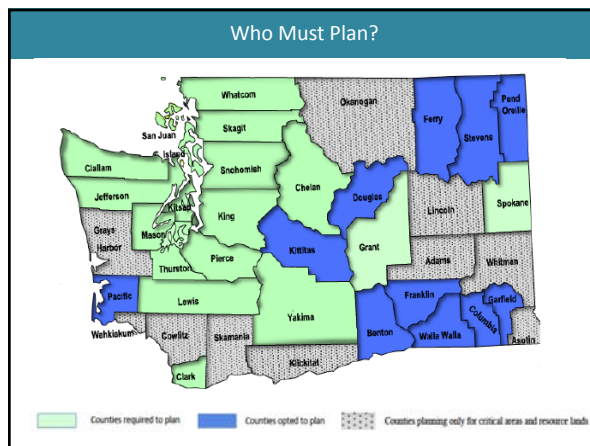
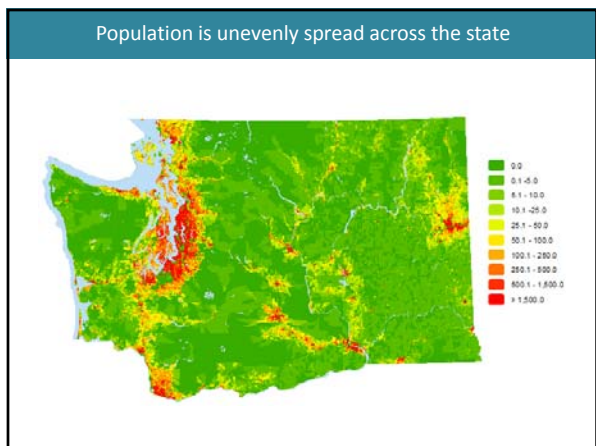
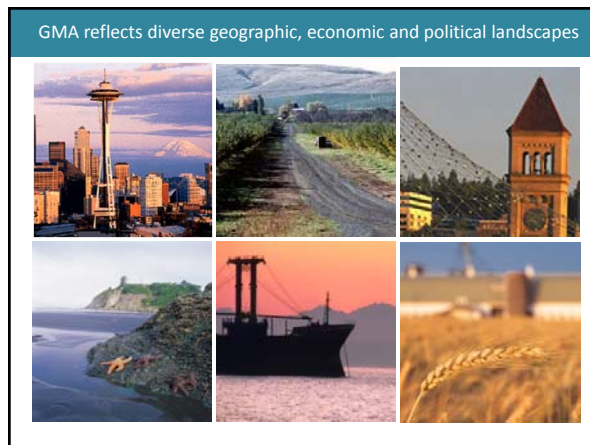
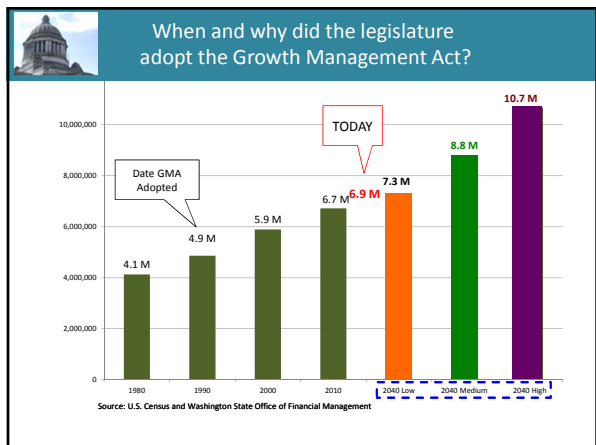
**Anne Fritzel, AICP**

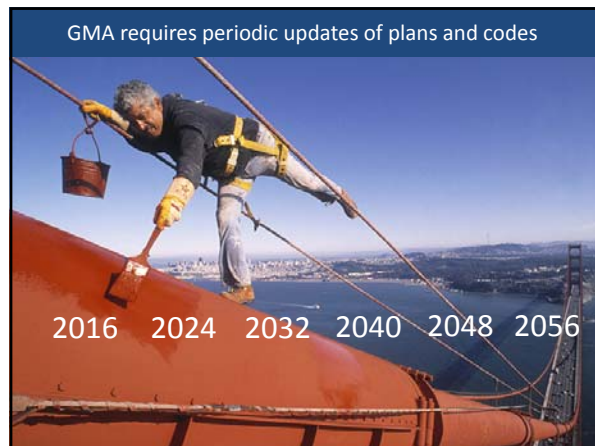
Senior Planner

Growth Management Services

Washington State Department of Commerce

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The Role of the Planning Commission in GMA planning

- The primary hearing body on proposed amendments to the comprehensive plan and development regulations.
- Weigh the evidence and public input and deliberate before reaching conclusions.
- Forward a recommendation to the elected council for their consideration.

GMA consists of GOALS and REQUIREMENTS

<b>PLANNING GOALS</b> are aspirational expressions of intent to <i>guide</i> local choices	<p>36.70A.010 Legislative findings.</p> <p>36.70A.011 Findings -- Rural lands.</p> <p>36.70A.020 Planning goals.</p> <p>36.70A.030 Definitions.</p> <p>36.70A.035 Public participation -- Notice provisions.</p> <p>36.70A.040 Who must plan -- Summary of requirements -- Development regulations must implement comprehensive plans.</p>
<b>GMA REQUIREMENTS</b> have the legal force of law and <i>must</i> be complied with	<p>36.70A.045 Phasing of comprehensive plan submittal.</p> <p>36.70A.050 Guidelines to classify agriculture, forest, and mineral lands and critical areas.</p>
They are enforced by appeals to the Growth Management Hearings Board	<p>36.70A.060 Natural resource lands and critical areas</p> <p>36.70A.070 Comprehensive plans -- Mandatory elements.</p> <p>36.70A.080 Comprehensive plans -- Optional elements.</p> <p>36.70A.085 Comprehensive plans -- Port elements.</p> <p>36.70A.090 Comprehensive plans -- Innovative techniques.</p> <p>36.70A.100 Comprehensive plans--Must be coordinated.</p>

Two Key Definitions:  
Comprehensive plan and development regulations

- A **comprehensive plan** is “a *generalized* coordinated land use *policy statement* of the governing body of a county or city . . .”
- **Development regulations** are “*controls* placed on development or land use activities by a county or city . . .”

RCW 36.70A.030 (GMA definitions)

GMA PLANNING GOAL 11 regarding public participation

**“Citizen participation and coordination.**  
Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts.

RCW 36.70A.020(11)

## GMA REQUIREMENT regarding public participation

"Each county and city that is required or chooses to plan...shall establish and broadly disseminate to the public a public participation program identifying procedures providing for early and continuous public participation in the development and amendment of comprehensive land use plans and development regulations implementing such plans. ...."

RCW 36.70A.140

## OTHER GMA PLANNING GOALS

- (1) **Urban growth.** Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.
- (3) **Transportation.** Encourage efficient multimodal transportation systems that are based on regional priorities and coordinated with county and city comprehensive plans.
- (4) **Housing.** Encourage the availability of affordable housing to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing.

## OTHER GMA PLANNING GOALS (Cont'd)

(6) **Property rights.** Private property shall not be taken for public use without just compensation having been made. The property rights of landowners shall be protected from arbitrary and discriminatory actions.

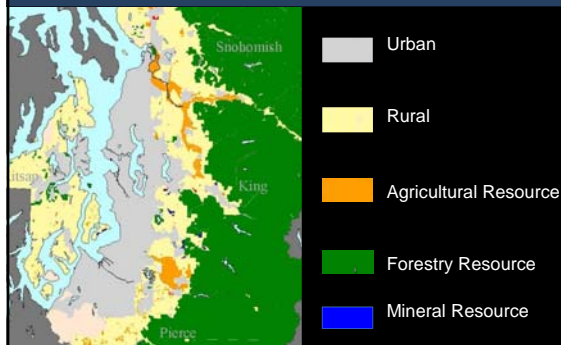
(7) **Permits.** Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.

(12) **Public facilities and services** Ensure that those public facilities and services necessary to support development shall be adequate to serve the development . . . without decreasing current service levels below locally established minimum standards.



## GMA REQUIREMENT:

All land must be designated as one of five mutually exclusive types



## GMA REQUIREMENT:

All agricultural, mineral and forest resource lands must be designated and regulations adopted to conserve them



Duty to designate resource lands is at RCW 36.70A.060

Duty to adopt regulations to conserve is at RCW 36.70A.170

**GMA REQUIREMENT:**

Critical Areas must be identified and regulations adopted to protect their functions and values



Critical areas are:  
Wetlands, Critical Aquifer Recharge Areas, Frequently Flooded Areas, Geologically Hazardous Areas, and Fish and Wildlife Habitat Conservation Areas.

Duty to identify critical areas is at RCW 36.70A.060

Duty to adopt regulations to protect is at RCW 36.70A.170

**GMA REQUIREMENT:**

Essential Public Facilities are defined & local government plans and regulations are precluded from prohibiting their siting or expansion



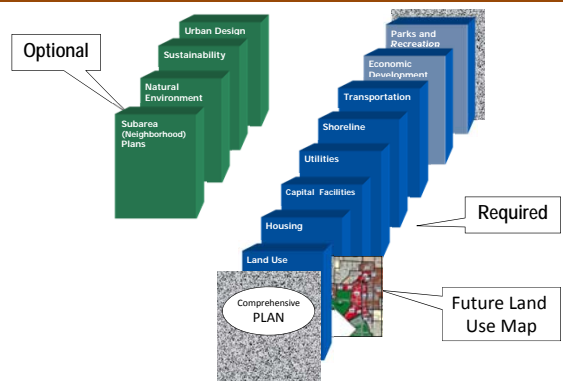
Essential Public Facilities provisions are at RCW 36.70A.200

**GMA REQUIREMENT:**

Counties are regional governments and cities are primary providers of urban services within urban growth areas

The legislature recognizes that counties are regional governments within their boundaries, and cities are primary providers of urban governmental services within urban growth areas . . .

RCW 36.70A.210 (1)

**Comprehensive Plan Elements (Chapters)**

Comp Plan Goals give broad direction or describe desired outcomes  
Policies set objectives or direct specific implementing actions

Element 1  
**LAND USE**

**Goal LU V:** Enhance the character, quality, and function of existing residential neighborhoods while accommodating anticipated growth.

**Goal LU VIII:** Encourage redevelopment of the Aurora corridor from a commercial strip to distinct centers with variety, activity, and interest.

**Policies**

**LU8:** Provide, through land use regulation, the potential for a broad range of housing choices and levels of affordability to meet the changing needs of a diverse community.

**LU5:** Review and update infill standards and procedures that promote quality development, and consider the existing neighborhood.

Comp Plan Goals give broad direction or describe desired outcomes  
Policies set objectives or direct specific implementing actions

Element 6  
**NATURAL ENVIRONMENT**

**Goal NE I.** Minimize adverse impacts on the natural environment through leadership, policy, and regulation, and address impacts of past practices where feasible.

**Goal NE X.** Maintain and improve the city's tree canopy.

**Policies**

**NE45.** Design natural infrastructure into projects whenever feasible to mimic ecological processes.

**NE46.** Create incentives to encourage enhancement and restoration of wildlife habitat on both public and private property through new and existing programs, such as the Backyard Wildlife Habitat stewardship certification program.



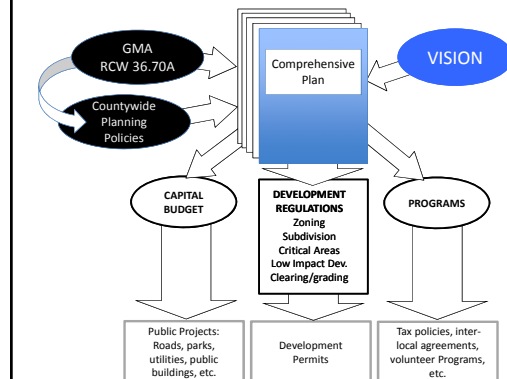
Cities have broad discretion to designate use & density on a Future Land Use Map in the Comprehensive Plan



**Legend**

- U** Urban Center
- H/R** Hub / Residential Urban Village
- Manufacturing / Industrial Center
- City-Owned Open Space
- Single Family Residential Areas
- Multi-Family Residential Areas
- Commercial / Mixed Use Areas
- Downtown Areas
- Industrial Areas
- Master Planned Community
- Major Institutions

**GMA REQUIRES CONSISTENCY**



thank you!



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