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## **Setting Yourself Up for Success**

*Procedures and Project Management  
Tricks for Managing Your Update*



October 3, 2013 APA Washington  
Annual Planning Conference

# Session Overview



## *Three Main Topics*

- *Conducting the Review and Building a Scope of Work*
- *Keeping Individual Components on Track*
- *Finishing Strong, Taking Action and Completing on Time*

## *Learning Goals*

- *What the GMA Requires*
- *What the Courts Have Said*
- *Suggestions and Practice Tips*



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# Today's Presenters



***Dave Andersen, AICP, Eastern Regional Manager, Department of Commerce, Growth Management Services***

Dave has been with the Department of Commerce for 12 years, serving cities and counties in both eastern and western Washington. He has managed the department's plan review process during the last round of updates and has also been responsible for updating the agencies administrative rules and, more recently, the transportation element guidebook. Dave currently works out of the regional office in Spokane.



***Andrew (Andy) Lane, Esq. Cairncross & Hempelmann***

Andy Lane practices land use law with Cairncross & Hempelmann. He works with private landowners and developers, as well as cities and counties on long-range planning issues and Growth Management Act compliance. Andy lives in Leavenworth and serves on the Leavenworth Planning Commission. He also serves on the Board of the Planning Association of Washington (PAW) and chairs the Education Committee. Andy is a frequent speaker at the joint PAW – Department of Commerce Short Course on Local Planning, which provides land use training to elected and appointed officials.

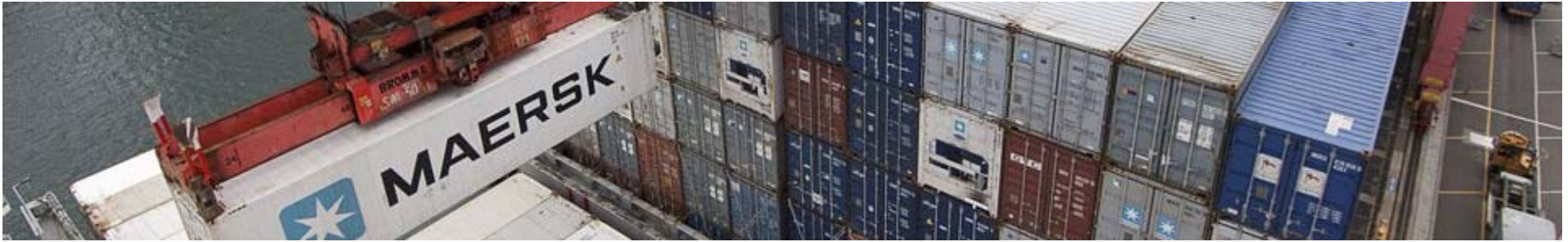


***Ikuno Masterson, AICP, LEED AP, Director Community Development, NW Region, Environmental Science Associates (ESA)***

Ikuno has over 25 years of expertise in land use and environmental planning in the Northwest. She has program and project management experience in both the public and private sectors. She served in local government as a policy advisor to County Executives & Mayors, King County SEPA Responsible Official, Manager of Seattle Master Use Permit Center, and directed GMA, resource planning, economic development, and environmental education programs. Her clients have benefitted from her strategic approach to making decisions on a wide range of development projects.



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# Conducting the Review and Building the Scope of Work

*Developing a Project Plan*  
*Developing a Public Participation Plan*



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# What the GMA Requires

## RCW 36.70A.130(1)(a)

Each comprehensive land use plan and development regulations shall be subject to continuing review and evaluation by the county or city that adopted them. Except as otherwise provided, a county or city shall **take legislative action to review** and, if **needed, revise** its **comprehensive land use plan and development regulations** to ensure the plan and regulations comply with **the** requirements of this chapter according to the deadlines in subsections (4) and (5) of this section.

(b) Except as otherwise provided, a county or city **not planning under RCW 36.70A.040** shall take action to review and, if needed, revise its policies and development regulations regarding **critical areas and natural resource lands adopted** according to this chapter to ensure these policies and regulations comply with the requirements of this chapter according to the deadlines in subsections (4) and (5) of this section. **Legislative action means the adoption of a resolution or ordinance following notice and a public hearing indicating at a minimum, a finding that a review and evaluation has occurred and identifying the revisions made, or that a revision was not needed and the reasons therefor.**

(c) The review and evaluation required by this subsection **shall include, but is not limited to, consideration of critical area ordinances and, if planning under RCW 36.70A.040, an analysis of the population allocated to a city or county from the most recent ten-year population forecast by the office of financial management.**

Review

Revise if Necessary

Legislative Action



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# To Review: What Must Be Reviewed

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*Comprehensive Plan*

*Development Regulations*

*Critical Areas Ordinance*

*Resource Lands*

*Urban Growth Areas*



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# *Revise if Necessary: What Triggers a Need for a Change*

## Major GMA Amendments 2009-2012

**2012 5292** Exempts certain irrigation ditches from the definition of Fish and Wildlife Habitat Conservation Areas

**2012 2ESSB 6406** Requires DOE to modify SEPA categorical exemptions and thresholds.

**2011 ESHB 1886** Creates a voluntary stewardship program as an alternative mechanism to protect critical areas from existing and ongoing agriculture.

**2010 EHB 1653** Clarifies when protection of critical areas within shorelines is transferred from the Critical Areas Ordinance to the Shoreline Master Program.

**2009 2SHB 1481** Requires certain local governments to allow electric vehicle infrastructure.

**2010 SHB 18525** Prohibits expansion of the urban growth area in some areas into the 100-year floodplain.

### *Statutory Changes*

### *Population Data*

### *Changes in Relevant Facts*

- Land Use Inventory
- Housing Inventory
- Transportation and Capital Facilities Elements
- Housing Needs Assessment
- Capital Facilities Reassessment



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## ***Revise if Necessary: Does This Trigger a Review?***

### **Major Court and Hearings Board Cases**

***Thurston County v. WWGMHB***, 164 Wn.2d 329 (2008)

***Futurewise v. Snohomish County***, CPSGMHB 05-3-0020, Order on Motion to Dismiss (May 23, 2005)

***The Suquamish Tribe v. CPSGMHB***, 156 Wn. App. 743 (2010)

***Gold Star Resorts v. Futurewise***, 167 Wn.2d 723 (2009)

- ***The GMA has not been amended, but a court decision has interpreted a requirement differently. Do we need to conform to this new interpretation?***
- ***Do we have to modify our UGA Boundary?***
- ***Our comprehensive plan committed us to do (a study, adopt specific regulations, review specific policies, etc.) by now – and we haven't. Should I be worried?***



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- ***We took a look at our CFP and we don't have near the revenue we predicted when we adopted the first plan. Is this the day of reckoning?***
- ***Its been 20 years and we have not sewerred much of our UGA. Should we be worried?***



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## ***Revise if Necessary: Does This Trigger a Review?***

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- ***Is compliance with Vision 2040 and the Multi-County Planning Policies a reviewable issue?***
- ***Do we need to review our critical areas ordinance for new science?***



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## *Revise if Desired: Reflect Community Interests*

### 8+/- years of change

**Business climate** – WA remains 25,000 jobs below start of recession; economy is growing slowly but steadily; housing construction up; revenue growth also slow but steady

**Schools & education** – “Fully Fund Basic Education”; families & education support/partnerships; student health; community learning

**Sustainability** – Eco-districts; smart growth; TOD; TDR; clean & conserve energy; electric vehicle infrastructure; green building; urban forests

**Aging infrastructure**- Deferred maintenance backlog; 67% WA roads in <mediocre condition; water supply in adequate

**Flood/sea-level rise**- Disaster planning; 700 miles of levees; levee setbacks; adapting to waterfront changes;

**Environmental Justice** – Homelessness; affordable/supportive housing; family age jobs; health equity; public services;

**Public safety** – Preventing youth violence; social justice; mental illness (1 in 4 adults & 1 in 10 children w/diagnosable disorder); chemical abuse; wildfires

*Requests deferred from previous dockets*

*Changes in community priorities*

*Changed circumstances*

- Changes in local policies not typically associated with land use
- Revised FEMA FIRMs
- Shoreline ecosystem analysis
- Extreme weather events
- Public health assessments



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# Practice Tips for Conducting the Work



- *What kind of staff work should I do to prepare a scope of work?*
- *How do I get public input? Should I do a scoping hearing?*
- *If I do one, what kind of input are we looking for?*



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# Should We Take Legislative Action on the Scope of Work?



*Advantages*



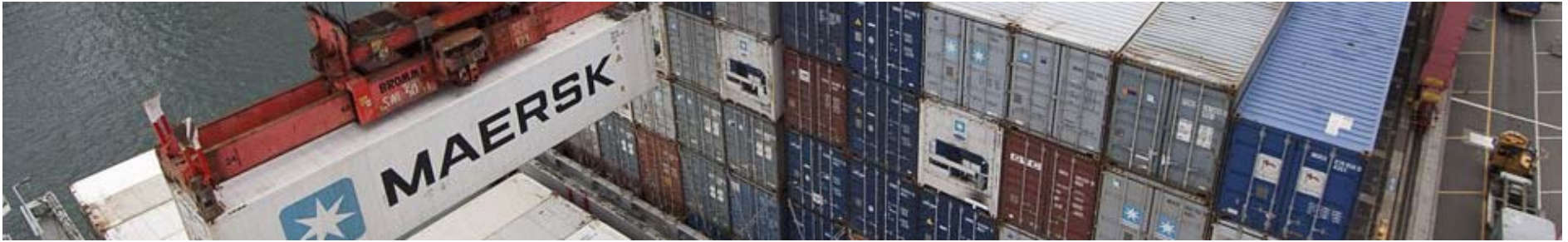
*Disadvantages*

*If not, then . . .*



*If so, then . . .*





# Keeping Individual Components on Track

*Schedule and Resource Management*



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# Essentials of Project Management



## ***Project Management Triad***

- *Schedule*
- *Scope*
- *Resources*



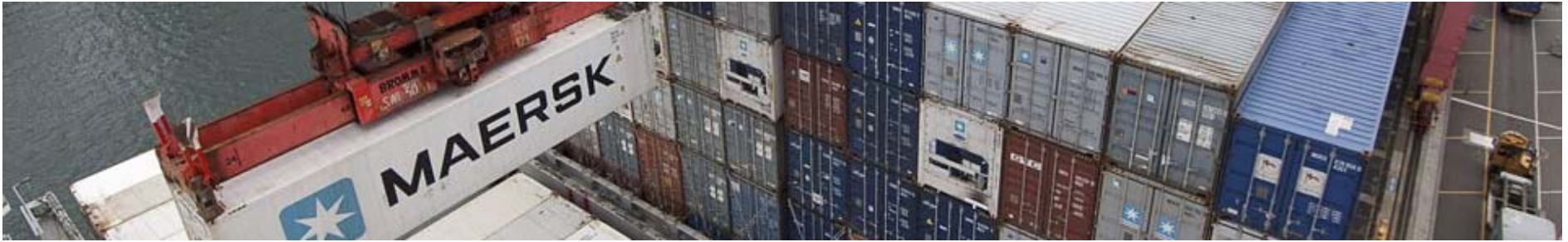
## ***Establishing a Public Participation Plan***



## ***What if My Plan Goes Haywire?***



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# Finishing Strong

*Taking Action and Completing on Time*



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## ***Take Legislative Action: What Must Be Adopted***

### **RCW 36.70A.130(1)(b)**

*Legislative action means the adoption of a resolution or ordinance following notice and a public hearing indicating at a minimum, a finding that a review and evaluation has occurred and identifying the revisions made, or that a revision was not needed and the reasons therefor.*

- ***By Ordinance or Resolution***
- ***A Public Hearing Is Required***
- ***Must Specify and Document a Review and Evaluation***
- ***Must Note Revisions that Were Made***
- ***Must Note How All Required Review Items Were Reviewed and Which Ones Did NOT Require Revision.***
- ***Must Find that the Plan and Development Regulations Comply with the GMA and Declare the Required Update Complete.***



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# ***The Magic Words: Where to Document the Update***

*The public should not be left to guess whether the County has undertaken its update or not. The statutory requirement for minimum legislative findings ensures that the public is on notice that the update is taking place. Therefore, the County cannot be found to have undertaken an update, even a partial update, of its comprehensive plan unless the challenged enactment unambiguously finds that a review and evaluation of the comprehensive plan and development regulations has occurred and identifies the revisions made; or if the County finds that a revision was not needed, the enactment must give the reasons for that. RCW 36.70A.130(1)(a)..*

*04-2-0010 1000 Friends v. Whatcom County, [Order on Motion to Dismiss](#), (August 2, 2004)*

- 1. The Public Participation Plan***
- 2. The Public Hearing Announcement***
- 3. Any Legislative Action that completes in part or narrows the scope of remaining update items, especially those that dispose of statutorily required update items***
- 4. The Findings of any action that adopts amendments that are part of the update***
- 5. The Final Action Declaring the Update Complete***



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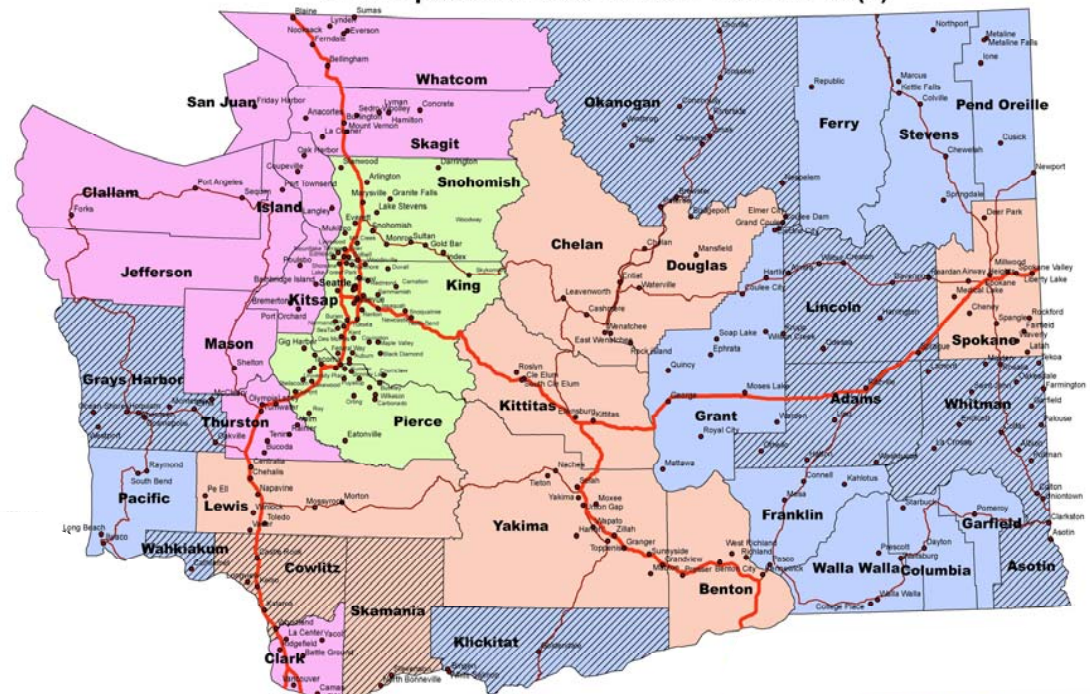


## Grant and Loan Programs Requiring Update Completion:

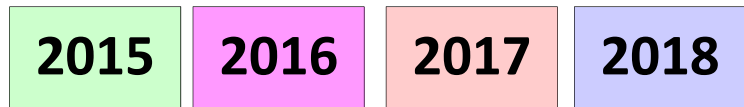
- Public Works Trust Fund
- Drinking Water State Revolving Fund
- Centennial Clean Water Fund
- Recreation and Conservation Office
- Pre-Disaster Mitigation Grants

## The Update is Due June 30<sup>th</sup> of:

GMA Update Schedule: RCW 36.70A.130(5)



Updated September 2012



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# The Character of an Update Appeal



## ***Failure to act***

*Petitioner claims the applicable deadline came and went and the local government did not take the required action.*



## **Failure to make all necessary changes**

*Petitioner claims a local government took action to complete the update, but did not make specified changes that they were required to make to ensure compliance.*



## ***Challenge to one of the changes***

*Petitioner claims that one of the amendments enacted as part of the update does not comply with the requirements of the act.*



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## What You Will Find

WAC

Year-by-Year List of GMA

Amendments

Update Checklist

- Dev Regs
- Comprehensive Plans
- Update-Specific Checklists

Updated Guidebooks for:

- UGA
- Housing
- Transportation

Resource List with Contact Info

Good Examples

Public Participation Plans

Scoping Documents

Update Resolutions

# Resources Available from Commerce

The screenshot shows the Department of Commerce website. At the top, there is a navigation bar with the Department of Commerce logo and the tagline "Innovation is in our nature." To the right of the logo is a search bar and links for "PROGRAM INDEX" and "CONTACT US". Below the navigation bar is a secondary menu with links for "About Commerce", "Programs", "Services & Assistance", "Research & Publications", "Boards & Commissions", and "Media Center". The main content area is titled "Growth Management Act Periodic Update" and contains a paragraph explaining the requirement for periodic updates of comprehensive plans and development regulations. Below this paragraph is a link to a guidebook: "Guidebook: Keeping your Comprehensive Plan and Development Regulations Current: A Guide to the Periodic Update Process under the Growth Management Act. September 2012". To the right of the main content is a sidebar titled "Growth Management Planning Topics" with a list of links: Buildable Lands, Citizen Participation and Coordination, Climate Change and Energy, Critical Areas and Best Available Science, Economic Development, Environment, GMA Periodic Update, Historic Preservation, Housing, Housing Guidebook Project, Natural Resources Industries, and Parks, Open Space, and Recreation. At the bottom of the page, there are logos for ESA, CH&C (Cairncross & Hempelmann Attorneys at Law), and the Department of Commerce.



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**For more information**  
[www.commerce.wa.gov/Growth](http://www.commerce.wa.gov/Growth)

# Questions?



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