

**CENTRAL PUGET SOUND
GROWTH MANAGEMENT HEARINGS BOARD
STATE OF WASHINGTON**

WEST SEATTLE DEFENSE FUND,)	Case No. 94-3-0016
)	
Petitioner,)	FINAL DECISION AND ORDER
)	
v.)	
)	
CITY OF SEATTLE,)	
)	
Respondent.)	
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I. PROCEDURAL HISTORY

On October 7, 1994, the Central Puget Sound Growth Management Hearings Board (the **Board**) received a Petition for Review from the West Seattle Defense Fund (**WSDF**) challenging the City of Seattle's (the **City** or **Seattle**) Comprehensive Plan (the **Plan**) for not complying with the Growth Management Act (**GMA** or the **Act**) or the State Environmental Policy Act (**SEPA**).

On November 15, 1994, the Board held a prehearing conference, set forth 11 legal issues to be determined by the Board, and established a schedule for filing motions, and witness and exhibit lists. One dispositive motion was eventually filed by the City.

On December 13, 1994, the Board held a hearing on Seattle's Motion to Dismiss SEPA Claim. Subsequently, on December 30, 1994, the Board entered an Order Granting Seattle's Motion to Dismiss SEPA Claim. As a result, Legal Issue No. 10 was dismissed with prejudice.

On January 19, 1995 the 66-page "West Seattle Defense Fund's Opening Hearing Brief" (**WSDF's Brief**) was filed with the Board. WSDF also submitted four sets of exhibits with its brief—three of which were contained in three-ring binders (Volumes 1, 2 and 4), and a fourth, separately bound, the "Preliminary Working Draft" of the Mayor's Recommended Comprehensive Plan, dated October 11, 1993 and indicating "For Internal Review Only" (Volume 3). Each exhibit was individually tabbed.

On February 13, 1995, the "City of Seattle's Brief" (**City's Brief**) was filed with the Board. Seattle's exhibits were contained in an unbound accordion file with exhibit numbers generally noted in the lower right-hand corner of the front page.

On February 21, 1995, "West Seattle Defense Fund's Reply Hearing Brief" (**WSDF's Reply**) was filed with the Board. Fourteen individually tabbed exhibits were attached to WSDF's Reply.

The Board held a hearing on the merits on the remaining legal issues raised by WSDF's Petition for

Review at 9:30 a.m. on Wednesday, February 22, 1995 at 3400 One Union Square, Seattle. M. Peter Philley, presiding, and Joseph W. Tovar were present from the Board.^[1] Peter J. Eglick represented WSDF and Robert D. Tobin represented Seattle. Court reporting services were provided by Robert H. Lewis of Tacoma. No witnesses testified at the hearing nor were any supplemental exhibits offered.

Two preliminary matters were addressed prior to oral argument. First, the "Amicus Curiae Motion/Brief" that was filed on February 17, 1995, by Anna Nissen was denied because it was not timely. Ms. Nissen's request was filed after WSDF and the City had filed their prehearing briefs.

Second, since a *Seattle Times* headline referred to in the City's Brief, at 57, footnote 46, was not part of the record nor had the City made a request to supplement the record with the article, the article in question was struck; the Board will not consider it.

In addition, during oral argument three exhibits that were previously unnumbered were given exhibit numbers as follows:

Exhibit 1 "The City of Seattle Comprehensive Plan—Toward a Sustainable Seattle: A Plan for Managing Growth—1994-2014." Gray-colored, bound document indicating "Adopted July 25th, 1994."

Exhibit 1A "Appendices to the City of Seattle Comprehensive Plan—Toward a Sustainable Seattle: A Plan for Managing Growth—1994-2014." Light blue, bound document indicating "Adopted July 25th, 1994."

Exhibit 1B "Seattle Comprehensive Plan Future Land Use Map." A multi-colored, over-sized map "Prepared by: the Office of Management and Planning 1995 City of Seattle. Adopted by Seattle City Council Ordinance Number 117221—July 25, 1994. Amended December 12, 1994—Ordinance Number 117436."

II. FINDINGS OF FACT

No material facts were disputed by the parties. In an effort to save time and paper, the relevant facts of the case are incorporated within Part III of this decision.

III. DISCUSSION

Before beginning its discussion of this case, the Board deems two general comments necessary. First, all parties are reminded that the legislature created three independent growth management hearings boards in an acknowledgment of this State's regional diversity. This feature is one of the hallmarks of the GMA, patterned after our judicial system with its three independent divisions of the Court of Appeals.

Both parties make numerous mention of Western Washington Growth Management Hearings Board's cases, particularly *Berschauer v. Tumwater*,^[2] as if it were this Board's decision. Although we will review and consider the decisions of the other hearings boards, this Board must make its own determination as to the proper interpretation of the Act within the Central Puget Sound region. Briefs of parties that cite to

decisions of other boards under the erroneous assumption that those decisions are binding upon this Board, do lose some credibility with the Board. As indicated, in this case, both parties make this assumption.

Second, this Board has always applied only the Act's standard of review as stated at RCW 36.70A.320. See *Twin Falls et al. v. Snohomish County* CPSGPHB Case No. 93-3-0003 (1993), at 49-59, for a detailed discussion of how this Board interprets the Act's standard of review, burden of proof and presumption of validity. This Board has never adopted and does not now adopt the Western Washington Growth Management Hearings Board's four-part standard of review, as first developed in its *Clark County Natural Resources Council et al. v. Clark County* decision.^[3] That standard of review is not binding upon this Board. RCW 36.70A.320 continues to be the Board's guidepost for establishing the standard of review.

The Board, like the parties in their briefing, now addresses Legal Issues Nos. 3, 4 and 5 first.

A. BACKGROUND TO LEGAL ISSUES NOS. 3, 4 AND 5

Urban Centers

As required by the King County Countywide Planning Policies (**KCCPPs**),^[4] the Plan's Land Use Policy L17 designates five "urban centers" as shown on Land Use Figures 1 through 6. Because the boundaries of urban centers are shown in detail on Land Use Figure 1, there was no need to adopt an additional policy for establishing their boundaries. In contrast, the Plan includes a separate policy designating "urban villages" and another either establishing a boundary or explaining the process that will be used for establishing a specific boundary for villages. When the City has designated areas and established precise boundaries for those areas, the Board treats the land use classification in question as having been adopted (whether done on a preliminary basis or not). The names of the urban centers which, pursuant to Policy L15 are regional centers, are:

- 1.) Downtown Seattle
- 2.) First Hill/Capitol Hill
- 3.) Seattle Center^[5]
- 4.) University District
- 5.) Northgate. Exhibit 1, at 10-11.

Manufacturing/Industrial Centers

Land Use Element Policy L29 designates two locations, the North Seattle Manufacturing/Industrial Center and the Duwamish Manufacturing/Industrial Center," shown on Land Use Figure 1, as "manufacturing/industrial centers." Boundaries of these centers are shown in detail in Land Use Figure 1. Therefore there is no need for a separate policy to establish their boundaries. This category was also required by the KCCPPs. See KCCPPs, Chapter II, Part D(4), (5) and (6), "Manufacturing/Industrial Center..." , at 23-25.

Urban Villages Generally—Categories and Purposes

Land Use Policy L11 establishes, in addition to those designations required by the KCCPPs for urban centers and manufacturing/industrial center, three categories of "urban villages":

- 1.) urban center villages within urban centers;
- 2.) hub urban villages;
- 3.) residential urban villages. Exhibit 1, at 9.

Urban Villages Generally

The Vision Resolution No. 28962 that precedes the Plan describes urban villages as a "strategy" and provides as follows:

The goal that unifies all the elements of the Comprehensive Plan is to preserve the best qualities of Seattle's distinct neighborhoods while responding positively and creatively to the pressures of change and growth. A key component of the City's plan to achieve this goal is the urban village strategy.

The urban village strategy combines small changes in the city's development pattern with a more complete and competitive intermodal public transportation system, the targeted use of housing assistance funds and planning tools to provide desirable and affordable housing, investment in facilities designed to serve higher density neighborhoods and neighborhood-based decisions built upon local citizen's expressed priorities. Exhibit 1, at ix.

...

Through the urban village strategy, the plan intends to achieve goals that are shaped by the core values.^[6] The plan's flexibility comes from the mechanisms that permit its adaptation to needs as they arise from the real experience of the next twenty years. Exhibit 1, at x.

The Plan indicates the intent of the three types of urban villages:

...Urban centers [villages] are intended to identify and reinforce concentrations of employment and housing in locations that would support and have direct access to the regional high capacity transit system. Hub urban villages and residential urban villages are intended to support densities that support transit use. Exhibit 1, Land Use Element Goal G4, at 5.

Furthermore, the Plan says:

Urban centers are intended to be the densest areas with the widest range of land uses. Functional designations of urban center villages indicate which uses are intended to be emphasized in the mix.

Hub urban villages are also intended to accommodate a broad mix of uses, but at lower densities than [urban] center villages, at intensities appropriate to the stage of development of the area.

Residential urban villages are intended for concentrations of low to moderate densities of predominantly residential development with a compatible mix of support services and employment.

In some instances, the urban village designation is intended to transform automobile-oriented environments into more cohesive, mixed-use pedestrian environments, or within economically distressed communities to focus economic reinvestment to benefit the existing population. Exhibit 1, Land Use Element Goal G6, at 5-6.

Urban Villages Designations Generally

All three categories of urban villages have been designated^[7] at various locations throughout the city. Pursuant to Land Use Element Policy L18, urban center villages are designated from within the larger urban centers to acknowledge differences in neighborhoods. Exhibit 1, at 11. Likewise, pursuant to Land Use Element Policy L19, urban center villages within the Downtown, First Hill/Capitol Hill and University District Urban Centers are designated as shown on Land Use Figures 2, 3 and 5. These figures are discussed further in the "urban center villages" section below.

Pursuant to Land Use Element Policy L8, hub urban villages, residential urban villages and neighborhood anchors are *preliminarily* designated as shown on Land Use Figure 1 of the Plan. Exhibit 1, at 8. Unlike those of urban centers and manufacturing/industrial centers, the boundaries of hub and residential urban villages and neighborhood anchors are not shown in detail on Land Use Figure 1; a symbol denotes only general locations.

Land Use Figure 1, prepared by the Seattle Planning Department on July 19, 1994, is a map entitled "Urban Centers, Urban Villages, Manufacturing Centers, and Neighborhood Anchors." Exhibit 1, at 13-14. The following land use categories and totals for each are shown on the map:

Urban Centers	(5)
Hub Urban Villages	(7)
Residential Urban Villages	(18)
Neighborhood Anchors	(25)
Manufacturing/Industrial Centers	(2)

As indicated above, actual boundaries of urban centers and manufacturing/industrial centers are shown on Land Use Figure 1 with a high degree of detail. In contrast, the boundaries of hub urban villages, residential urban villages and neighborhood anchors are not shown on the map. Instead, symbols identify only the general location of these three areas. Exhibit 1, at 13-14. Consequently, the Plan contains policies that address the establishment of boundaries for these areas. Accordingly, only urban centers and

the urban villages within them, and manufacturing/industrial centers, have been adopted. Hub and residential urban villages, and neighborhood anchors have not yet been adopted.

Urban Center Villages Boundaries

Land Use Element Policy L13 establishes *preliminary* urban center village boundaries within urban centers as indicated in Land Use Figures 2, 3 and 5 of the Plan.^[8] Pursuant to that policy, permanent urban center village boundaries will be established as part of the neighborhood planning process.^[9] Exhibit 1, at 9. Policy L19 notes that:

The boundaries and names used to identify these urban [center] villages are provided for planning guidance and subject to change under future neighborhood plans. Exhibit 1, Land Use Element Policy L19, at 11.

Policy L19 also points out that the Seattle Center and the Northgate Urban Centers are at present too small to be subdivided into urban center villages.

Land Use Figure 2 is captioned "Downtown Urban Center," Land Use Figure 3 "First Hill/Capitol Hill Urban Center," and Land Use Figure 5 is captioned "University District Urban Center." Land Use Figures 3 and 5 only contain the following note:

Boundaries of Urban Center Villages within Urban Centers are Preliminary Planning Boundaries and are subject to change in the neighborhood planning process. Exhibit 1, at 15-16.

Although each of these three figures contain boundaries inside the boundaries of the urban center, denoted by a dotted line, only Land Use Figure 5 indicates that the dotted line signifies "Village Boundary." Exhibit 1, at 16. The reference presumably is to urban center village boundaries within urban centers. All three of the figures show the boundaries of urban centers and urban center villages with a great degree of specificity.

Hub Urban Villages

Land Use Element Policy L32 lists the criteria to be used in designating hub urban villages. Land Use Element Policy L33 *preliminarily* designates seven locations as shown on Land Use Figure 1 as hub urban villages, "subject to further objective analysis in the neighborhood planning process." Exhibit 1, at 21. They are:

- 1.) Ballard
- 2.) West Seattle Junction
- 3.) Lake City
- 4.) Fremont
- 5.) Aurora at N. 130th Street
- 6.) Rainier Avenue/I-90
- 7.) South Lake Union. Exhibit 1, at 21.

As indicated above, only the general location of these hub urban villages is shown on Land Use Figure 1, depicted by a square with the letter "H" in the middle. The City has not yet established the actual boundaries of the designated hub urban villages and residential urban villages. Therefore, hub urban villages have not yet been adopted. Land Use Element Policy L14 indicates when actual boundaries will be established. It provides:

Establish boundaries for hub urban villages or residential urban villages as each new or revised neighborhood plan is adopted by the City Council; provided, that: if at the end of the neighborhood planning cycle, a village boundary has not been established for a hub or residential urban village, the boundary shown in Land Use Appendix A of this plan shall become the boundary for that urban village. Exhibit 1, at 10. (emphasis added).

Land Use Appendix A is a map, similar to Land Use Figure 1, captioned "Unadopted Urban Village Boundaries Hub and Residential Urban Villages Only." It was prepared by the City Planning Department on July 21, 1994 and shows, with a high level of specificity, the boundaries of the 7 hub urban villages and the 18 residential urban villages whose locations were only generally shown by symbols on Land Use Figure 1. Exhibit 1A, Land Use Appendix A, at A4-A5.

Residential Urban Villages

Land Use Element Policy L42 specifies the criteria necessary for an area to be designated a residential urban village. Land Use Element Policy L44 *preliminarily* designates an unspecified number^[10] of residential urban villages as identified in Land Use Figure 1, again "subject to further objective analysis through the neighborhood planning process." Exhibit 1, at 23. As indicated above, Land Use Figure 1 depicts only general locations for residential urban villages, shown by a triangle with the letter "R" in the middle. Also, as previously discussed, referring to Land Use Appendix A (as suggested by Land Use Element Policy L14) is the only means of ascertaining the exact boundaries of residential urban villages. However, Policy L14 also indicates that the specific boundary shown on Land Use Appendix A will become the official boundary only if the neighborhood planning process fails to establish its own boundary for residential urban villages. Therefore, at this time residential urban villages have not been adopted.

Neighborhood Anchors

The criteria for designating neighborhood anchors are listed at Land Use Element Policy L53. Twenty-five^[11] neighborhood anchors are *preliminarily* designated as shown on Land Use Figure 1, "subject to further objective analysis in the neighborhood planning process." Exhibit 1, Land Use Element L54, at 26. Like hub urban villages and residential urban villages, Land Use Figure 1 only generally shows the location of neighborhood anchors, which are depicted by a circle or bullet. Therefore, neighborhood anchors have not been adopted.

Pursuant to Land Use Element Policy L53(A), neighborhood anchors "generally range in size from 5 to 20

acres" which implies that some of the 25 neighborhood anchors may be larger and some smaller than that range. Exhibit 1, at 25. Yet, unlike hub urban villages and residential urban villages, where one can at least turn to Land Use Appendix A (Exhibit 1A, at A4-A5) to see "default" boundaries if neighborhood planning fails (*see* Policy L14), no such default mechanism exists for neighborhood anchors.

Future Land Use Map

Pursuant to Land Use Element Policy L62, urban centers and manufacturing/industrial center boundaries, *preliminary* residential and hub urban village designations and *preliminary* neighborhood anchor designations are to be identified on the Future Land Use Map (i.e., Exhibit 1B) attached to the Plan. Exhibit 1, at 31. The Future Land Use Map itself shows urban centers, manufacturing/industrial centers, hub urban villages, residential urban villages and neighborhood anchors, among other designations.^[12] Like Land Use Figure 1 in the Plan, the Future Land Use Map shows the boundaries of urban centers and manufacturing/industrial centers with a high level of specificity. However, also like the Plan's Land Use Figure 1, the Future Land Use Map only shows the general location of hub urban villages, residential urban villages and neighborhood anchors which are depicted by symbols rather than by boundary lines. Exhibit 1B. Accordingly, it is not possible to ascertain the exact boundaries of hub urban villages, residential urban villages and neighborhood anchors on the Future Land Use Map.

SUMMARIZING CHART					
	URBAN	URBAN VILLAGES		NEIGHBORHOOD	
	CENTER	Urban Center	Hub	Residential	ANCHORS
<i>Designation:</i>					
Preliminary		L19	L33	L44	L54
Permanent	<i>L17</i>	L18			
<i>Boundaries:</i>					
Preliminary		L13			
Permanent	<i>L17</i>				
In the future			L14	L14	

Bold/Italic = boundaries are shown in detail on Land Use Figure 1.
 Note that L8 also preliminarily designates the three types of urban villages and neighborhood anchors.

Urban Centers, Urban Villages and Neighborhood Anchors in West Seattle

No urban centers have been designated in the West Seattle portion of the city.^[13] One hub urban village, three residential urban villages and five neighborhood anchors have been *preliminarily* designated in West Seattle but specific boundaries have not yet been established. Therefore, no urban centers, villages or neighborhood anchors have been adopted in West Seattle. The effect of this will be discussed below in Legal Issue No. 5.

Does the Growth Management Act at RCW 36.70A.070 and .110 require a comprehensive plan to be complete upon initial adoption?

POSITION OF THE PARTIES

WSDF

WSDF contends that a comprehensive plan must be complete upon initial adoption: it must include a complete list of required elements; it must be adopted by a date certain; it must include a final urban growth area (**FUGA**). "To conclude otherwise would render the goal ... for comprehensive land use planning meaningless." WSDF's Brief, at 40. WSDF stresses that the Plan is incomplete because the City has failed to designate the boundaries of its urban villages. Accordingly, the Plan's urban villages designations must be complete in order to identify specific, necessary capital and transportation improvements and necessary financing to construct them, to channel growth into urban areas with adequate facilities, and to enable full analysis of environmental impacts of urban villages. WSDF's Brief, at 40-41.

Seattle

The City does not directly respond to this legal issue. Seattle contends that its urban villages, although not required by the GMA, reflect one of the land use patterns discussed in the KCCPPs—activity centers. City's Brief, at 42. Seattle admits that urban village boundaries will not be fully established until the neighborhood planning process is complete. "Because it will be years before the many (approximately 30) neighborhood plans are completed, this aspect of urban villages will develop over time." City's Brief, at 43. However, by implication, the City's position appears to be that only the mandatory provisions of a comprehensive plan must be complete. Since its urban villages concept is not mandated by the Act and therefore nothing in the Act indicates when or how such a concept is to be implemented or urban village boundaries drawn, the urban villages provisions do not have to be complete at the time of comprehensive plan adoption. City's Brief, at 46.

Not required by the GMA, the City Council's decisions about the nature, scope and timing of implementation of the urban village vision is one which, with limited exceptions, lies with the discretion of those elected officials. City's Brief, at 45.

The City contends that the City Council's decision to implement the urban villages vision incrementally is fully consistent with the iterative and interactive nature of the GMA. City's Brief, at 43. Furthermore, this "phased implementation" is the result of the "hard reality" of limited time and money, and as a result of the preference expressed by many citizens during the Plan adoption process to defer aspects of the urban villages concept until neighborhood planning was completed. City's Brief, at 43. Most important, from the City's perspective, was the decision that it was unnecessary to establish urban village boundaries for all urban villages. However, the City did adopt boundaries for commercial areas within urban villages "so that certain zoning incentives could be given immediate effect...." City's Brief, at 44-45. The City repeatedly indicates that it decided to defer implementation of the entire urban villages strategy until

the neighborhood planning process and refers to this decision as "the most controversial aspect of the proposed plan...." City's Brief, at 50; *see also* at 49, 51-52.

DISCUSSION

The Board holds that upon initial adoption of a comprehensive plan, jurisdictions planning under the Act must have fully completed all the mandatory requirements of RCW 36.70A.070. When the legislature enacted the GMA, which took effect on July 1, 1990, it required cities and counties planning under the Act to adopt a comprehensive plan by July 1, 1993. *See* Laws of 1990, 1st ex. sess., ch. 17, § 4. The 1993 legislature extended the deadline an additional year to July 1, 1994. *See* Laws of 1993, 1st sp. sess., ch. 6, § 1. Thus, cities and counties in the Central Puget Sound region were given four years to prepare and then adopt comprehensive plans. The City of Seattle adopted its comprehensive plan on July 25, 1994.

RCW 36.70A.070 establishes the mandatory requirements for and elements of a comprehensive plan. To paraphrase in outline form the comprehensive plan shall consist of the following:

A map or maps

A descriptive text covering:

objectives

principles

standards

A future land use map

Public participation in the adoption process

Mandatory elements:

(1) land use element—containing:

proposed general distribution and general location and extent of the uses of
land;

population densities;

building intensities;

estimates of future population growth;

protections of ground water quality and quantity used for public water
supplies;

review of drainage, flooding and storm-water run-off in the area and
nearby jurisdictions;

guidance for corrective actions to mitigate or cleanse discharges that
pollute waters of the state;

(2) housing element—containing recognition of vitality and character of established residential neighborhoods and:

(a) inventory and analysis of existing and projected housing needs;

(b) statement of goals, policies and objectives for preservation, improvement and development of housing;

(c) identification of sufficient land for housing;

(d) adequate provisions for existing and projected needs of all economic segments of

the community.

- (3) capital facilities plan element—containing:
 - (a) inventory of existing capital facilities owned by public entities, showing the locations and capacities of the capital facilities;
 - (b) forecast of future needs for such capital facilities;
 - (c) proposed locations and capacities of expanded or new capital facilities;
 - (d) six-year plan, at a minimum, for financing such capital facilities within projected funding capacities, that includes sources of public money;
 - (e) reassessment of land use element if probable funding falls short of meeting existing needs.
- (4) utilities element—containing:

general location, proposed location and capacity of all existing and proposed utilities.
- (5) rural element (for counties only)—containing:

lands not designated for urban growth, agriculture, forest or mineral resources;
land uses compatible with rural character;
variety of densities.
- (6) transportation element—containing:
 - (a) land use assumptions used in estimating travel;
 - (b) facilities and services needs:
 - (i) inventory of air, water and land transportation facilities and services;
 - (ii) level of service standards for all arterial and transit routes;
 - (iii) actions and requirements to bring facilities and services into compliance that fall below established level of service standards;
 - (iv) traffic forecasts for at least 10 years;
 - (v) identification of system expansion needs and transportation system management needs;
 - (c) financing:
 - (i) analysis of funding capabilities;
 - (ii) multiyear financing plan;
 - (iii) discussion of how to obtain additional funding, if probable funding falls short, or how land use assumptions will be reassessed to ensure that level of service standards are met;
 - (d) intergovernmental coordination efforts;
 - (e) demand-management strategies for adoption and enforcement of ordinances that prohibit development approval if the development causes the level of service on a transportation facility to decline below the standards adopted in the transportation element.

In addition, RCW 36.70A.110(4) and (5) require that comprehensive plans include FUGAs. All of the mandatory requirements listed above must be fully complete at the time of comprehensive plan adoption.

The Act also allows for optional elements to a comprehensive plan (RCW 36.70A.080) and permits the use of innovative techniques (RCW 36.70A.090). The Board holds that such optional features of a

comprehensive plan do not have to be complete at the time of plan adoption, provided that the adopted portions otherwise comply with the Act's requirements. A jurisdiction will not be penalized for electing to expand the scope of its plan simply because it has not fully completed work on its optional components.

Although each of the mandatory requirements is crucial to effective land use planning on its own, an important requirement of any comprehensive plan is that "[T]he plan shall be an internally consistent document and all elements shall be consistent with the future land use map." First paragraph of RCW 36.70A.070. The internal consistency theme is repeated throughout RCW 36.70A.070. *See* for instance, RCW 36.70A.070(3)(e), (6), and the last sentence of (6)(e). Accordingly, the Board also holds that a comprehensive plan, including both mandatory elements and optional elements or features, must be internally consistent. Although a jurisdiction is not required to have completed optional features, such as optional elements or innovation techniques, that it may have elected to include in its plan by the time of plan adoption, a jurisdiction is always required to produce an internally consistent document.

CONCLUSION NO. 3

The Growth Management Act requires only that the mandatory elements of a comprehensive plan, specified at RCW 36.70A.070 and .110, be complete upon initial adoption of the plan. If a jurisdiction elects to include optional elements or innovative techniques in its plan, these need not be complete at the time of initial adoption of the plan provided that such features otherwise comply with the Act's requirements. However, all provisions of a comprehensive plan, whether mandatory or optional elements, or innovative techniques, must be internally consistent.

C. LEGAL ISSUE NO. 4

4. If the answer to Legal Issue No. 3 is yes, is the Plan incomplete in its designation and delineation of "urban villages" in West Seattle?

POSITION OF THE PARTIES

WSDF

WSDF contends that Seattle's Plan is incomplete because it fails to specifically identify the urban villages upon which the Plan's entire premise depends. WSDF acknowledges that the urban village concept could have been addressed in the Plan by indicating that the concept would be studied in the future and the Plan amended as a result. However, because the urban village strategy is an integral component of the adopted Plan, it must be complete and able to stand on its own. WSDF's Brief, at 41, n 23. WSDF points out that Land Use Figure 1 (Exhibit 1, at 13-14) simply indicates the location of urban villages generally by a symbol on the map but does not show the exact boundaries of those villages. WSDF also maintains that, although Land Use Appendix A (Exhibit 1A, at A4-A5) does show "a rough sketch" of the urban village boundaries, those are "unadopted." Furthermore, WSDF cites to provisions in the Plan that indicate that the appendices are not to be read as establishing or modifying policies or requirements of the Plan unless specified for such purposes in the Plan policies.^[14] WSDF's Brief, at 41-42.

WSDF contends that the Plan's policies L10, L50 and L74:

... allow upzoning in existing single-family neighborhoods that are within urban villages and are within easy walking distance of the principal commercial urban village streets. However, such streets are themselves not yet designated.

The upshot of all of this is that the Plan depends upon and indicates a policy decision that areas are to be designated as urban villages, and targeted for more intense urban growth accommodated through a variety of (masked) upzoning techniques, but residents of the potential urban villages are unable to discern whether their particular property will be affected, since they will not be able to identify either the urban village boundary or the area in which upzoning will be permitted....

WSDF's Brief, at 42 (emphasis in original).

WSDF cites to portions of the record where City Planning Department staff warned the City Council that by failing to establish urban village boundaries, "the City would be putting off agreeing on the future of the city as-a-whole." WSDF's Brief, at 43, quoting Exhibit 4.65, at 14-15.

Citing to Board decisions regarding the requirements for mapping, WSDF contends that it is mandatory that precise maps be included in comprehensive plans and those maps must inform the public whether one's property lies within a given boundary, or else the map must indicate where more precise information is available. WSDF acknowledges that some of the Board decisions it cited dealt with Interim UGAs (**IUGAs**), but maintains that RCW 36.70A.070 and WAC 365-195-300(2)(d) demand detailed comprehensive plan maps. WSDF's Reply, at 42. Because the City has not done that for its urban villages, WSDF alleges that the City's Plan is incomplete and therefore violates RCW 36.70A.070. WSDF's Brief, at 43-44.

WSDF also addresses the City's reliance on the neighborhood planning process for establishing precise urban village boundaries. Although WSDF concedes that the City could defer action to indicate the exact boundaries of parcels of land that will be rezoned in the future until that action takes place, WSDF attacks the City for deferring entirely the setting of urban village boundaries. "If the City wanted neighborhoods involved in setting urban village boundaries, it should have involved them in the GMA comprehensive planning process." WSDF's Reply, at 43.

Seattle

Seattle contends that the "building blocks" of its Plan are the GMA's mandatory elements as required by RCW 36.70A.070, supplemented by an economic development element required by the KCCPPs, and a neighborhood planning element required by the Seattle Framework Policies (Resolution 28535). City's Brief, at 37, citing to Exhibit 1, at v.

The City points out that the Plan does not require new residential development to locate in urban villages. The urban villages strategy is "comprised largely of incentives to achieve that goal." That strategy is a theory for the distribution of growth. Seattle maintains that the list of proposed urban villages in Exhibit

1A, the Plan's Appendices, "shows that urban villages already exist in fact; they are the existing neighborhood centers which have mixed uses and higher densities." City's Brief, at 38.

Citing to the Appendices to the Plan, the City alleges that its existing (i.e., adopted before the GMA) zoning provides ample development capacity to accommodate the expected levels of growth. Accordingly, it was unnecessary for the Plan to require any upzoning, and it does not do so. City's Brief, at 38-39.

The Plan permits, but does not require, upzoning. Indeed, the Plan makes it more difficult to upzone single-family zones than previously. The Plan [Exhibit 1, Land Use Policy L74, at 33] states that such zoning can be considered only when it meets five stringent conditions... City's Brief, at 39, n. 22.

Since one of the listed conditions in Policy L74 is the establishment of urban village boundaries through the neighborhood planning process, the rezoning authorized by the Plan is optional and contingent upon the completion of the neighborhood plans. City's Brief, at 40. Furthermore, Seattle points out that several Plan policies that WSDF claims require urban village boundaries now are "clearly contingent upon completion of neighborhood plans." The City cites to Land Use Element Policies L74 (Exhibit 1, at 33); and L10 (Exhibit 1, at 9); L50 (Exhibit 1, at 24). City's Brief, at 48-49, n. 37.

The City also points out that WSDF's reference to Board decisions regarding mapping deal with IUGA cases. City's Brief, at 47-48. The City maintains that those decisions are inapplicable since they dealt with development regulations rather than a generalized comprehensive plan. Since RCW 36.70A.070(1) requires the land use element of a comprehensive plan to designate the proposed general distribution and general location of land uses, Seattle contends that:

The maps in Seattle's Plan show the general location of urban villages. When more detailed designation are necessary to implement a Plan policy, they are or will be included in development regulations. City's Brief, at 48.

DISCUSSION

In order for the Board to answer this legal issue, it must first determine what the City's "urban villages" are. As indicated in the discussion of Legal Issue No. 3 above, if the Board concludes that urban villages are a mandatory requirement of the Act, they must be complete at the time of plan adoption; if urban villages fall into a discretionary category such as optional elements or innovative techniques, they do not have to be fully complete at the time of plan adoption but the adopted portions must nonetheless comply with the GMA's requirements and even the incomplete portions must be internally consistent with the complete and mandatory portions of the plan.

Seattle describes the "urban village" provisions of the Plan variously as follows:

...the urban village *concept*.... City's Brief, at 30. ^[15]

...Because the fundamental purpose of the GMA is to plan for growth, that is, to employ a deliberate policy to guide the timing and distribution of growth rather than having growth occur ad hoc, the City sought an *organizing principle* which would unite the disparate plan elements and provide direction for the distribution of growth. The urban village *concept* is that *principle*. City's Brief, at 37 (underlining in original; italics added).

That the urban village "*strategy*" is first and foremost a *theory* of the distribution of growth... City's Brief, at 38.

...Although the urban village *concept* has been described by some as a dramatic, *new approach* to land use planning, it is in large measure a *recognition* of existing development patterns, and does not require significant land use changes in any area. City's Brief, at 38.

...the urban villages *concept* is an *additional criterion* by which the Council evaluates and prioritizes proposed capital expenditures. City's Brief, at 40.

A related example of the use of urban villages as a *tool* to prioritize expenditures... City's Brief, at 41.

While the urban villages *concept* influences the timing of development of neighborhood plans, it is not itself a "plan." Rather, it is a *methodology* for the distribution of growth. City's Brief, at 41.

...the urban village concept is purely a creature of local, legislative policy. The *concept is not an optional element* of a comprehensive plan under RCW 36.70A.080, because *it is not an "element"* at all, nor is it a "subarea plan" because *it is not a plan*, much less a plan for a "subarea." To the extent one feels compelled to match the concept with a statutory pigeonhole, the concept might best be characterized as an "*innovative land use management technique*" under RCW 36.70A.090. City's Brief, at 41-42.

The phased implementation of the urban village *vision*... City's Brief, at 43.

...the urban village *concept*, is a *theory* to guide the distribution of growth. City's Brief, at 45.

In summary, the Council's decision to encourage the location of new development in existing neighborhood centers, the urban village *concept*, is a *theory* to guide the distribution of growth... City's Brief, at 45.

Indeed, because the urban village concept is not required by the GMA, it is *akin to other optional features* authorized by RCW 36.70A.080. City's Brief, at 47, fn. 34.

...It is obvious, however, that the very reason the City Council deferred many aspects of the urban village *strategy* was in response to citizens... City's Brief, at 50-51.

...In particular, the Council's decision to meld the urban village "*process*" with the neighborhood

planning program was an eminently reasonable choice.... City's Brief, at 52.

...To the extent WSDF attempts to characterize the designation of an urban village as a "*subarea plan*" (*which it is not*), such a plan remains an optional component of a comprehensive plan, not a mandatory requirement as urged by WSDF. City's Brief, at 54.

...the urban village *concept is not a "plan"* at all, it is a *theory* for the phasing and distribution of growth. City's Brief, at 55. (*italics added*).

The Board holds that the Act does not mandate that jurisdictions include concepts like Seattle's urban villages strategy in a comprehensive plan. Instead, that strategy appears to most fairly fall into the classification of an "innovative land use technique" as discussed in RCW 36.70A.090 which provides:

A comprehensive plan should provide for innovative land use management techniques, including, but not limited to, density bonuses, cluster housing, planned unit developments, and the transfer of development rights.

Therefore it was not necessary for the City to have completed its urban villages strategy at the time it initially adopted its Plan.

Next, in order to answer Legal Issue No. 4, the Board must determine whether the City's urban villages strategy was "complete in its designation and delineation of 'urban villages' in West Seattle." As the Board's summary of the Plan's urban village features indicates, all urban centers, the three types of urban villages, and the neighborhood anchors have been designated by the following Land Use Element Policies:

Urban centers	L17
Urban center villages	L18, L19
Hub urban villages	L8, L33
Residential urban villages	L8, L44
Neighborhood anchors	L8, L54

Importantly, the policies for hub and residential urban villages and neighborhood anchors indicate that these are "preliminary" designations. In contrast, the policies designating urban centers (L17), and urban center villages (L18) do not indicate that they are preliminary.^[16] These preliminary designations are similar in at least one respect to "interim" development regulations discussed by the Board in prior cases: until and unless the preliminary designations are amended or replaced, they remain in effect. Although it is the City's goal (*see* Neighborhood Planning Element Goal G6, Exhibit 1, at 113) to complete the neighborhood planning process "within four years," the goal is not mandatory nor do the relevant policies making the preliminary designations contain sunset clauses specifying when they expire.

Land Use Figure 1 reveals that no urban centers or urban center villages have been designated in West Seattle but that one hub urban village, three residential urban villages and five neighborhood anchors have been preliminarily designated there. Therefore, the Board holds that the Plan is complete in its designations of all urban villages, including the four urban villages in West Seattle.

The Board treats the "delineation" prong of Legal Issue No. 4 as asking whether the boundaries of the preliminarily designated urban villages have been established. Of the three types of urban villages, exact boundaries for urban village centers are the only specific boundaries that are known today. Exhibit 1, Land Use Element Policy L13, at 9. These boundaries are also "preliminary," yet, like the preliminary designations discussed above, there is no sunset provision that would automatically repeal them. Although the City implies that they are temporary boundaries because they are preliminary, unless and until these boundaries are replaced, they are the only ones that have full force and effect.

No boundaries for hub and residential urban villages have been established. According to Land Use Element Policy L14, the precise boundaries of the hub urban village and residential urban villages in West Seattle will be drawn at an unspecified time^[17] in the future through the neighborhood planning process. The neighborhood planning process is more fully described in Neighborhood Planning Element Policy N14 of the Plan. Although Policy L14 refers to a map showing precise locations of unadopted boundaries, i.e., Land Use Appendix A (Exhibit 1A, at A4-A5), those locations will only become the adopted boundaries through default if the neighborhood planning process fails to establish boundaries. Exhibit 1, at 10.

Finally, no boundaries for neighborhood anchors have been established. Unlike hub and residential urban villages, there is no "default" mechanism that kicks in if the neighborhood planning process fails to establish boundaries. In its appeal, WSDF has not challenged the neighborhood anchor designations.

The Board holds that the Plan is incomplete in establishing boundaries of the preliminarily designated hub and residential urban villages, and neighborhood anchors. As such, hub and residential urban villages, and neighborhood anchors have not been adopted at this time.

CONCLUSION NO. 4

Seattle's "urban villages strategy" is an innovative land use technique that the City has elected to include in its comprehensive plan. Because innovative land use techniques are not required by the Act, such techniques do not have to be fully complete at the time of initial adoption of a comprehensive plan. The Board concludes that the Plan is complete in *preliminarily designating* the three types of urban villages and neighborhood centers throughout the city. However, the City has not established the specific boundaries of two of the three categories of urban villages designated in its Plan: hub urban villages and residential urban villages. In addition, the City has not established the precise locations of its *preliminarily* designated neighborhood anchors. Instead, Seattle has elected to defer the drawing of exact boundaries of hub urban villages and residential villages (Land Use Element Policy L14) and of neighborhood anchors (Land Use Element Policy L54) until completion of the neighborhood planning process (outlined in Neighborhood Planning Element Policy N14).

Land Use Figure 1 of the Plan indicates that the West Seattle portion of the city has *preliminarily* been designated with one hub urban village, three residential urban villages, and five neighborhood anchors. Therefore, the Board concludes that the Plan is complete in designating urban villages in West Seattle.

However, the exact locations of these urban villages and anchors will not be known until an unspecified time in the future when the neighborhood planning process is completed. Therefore, the Board concludes that Seattle's Plan is incomplete in establishing (i.e., delineating) the boundaries of *preliminarily* designated "urban villages" in West Seattle.

D. LEGAL ISSUE NO. 5

If the answer to Legal Issue No. 4 is yes, what is the effect of incomplete designations and delineations of "urban villages" in West Seattle?

DISCUSSION

The Board has, in essence, previously answered this legal issue when it determined Legal Issue No. 3. Although the City has the discretion to include incomplete "optional features" in its Plan such as optional elements and innovative land use techniques like its urban villages strategy, once such features are included in the Plan, they must be internally consistent with the other provisions of the Plan and must otherwise comply with the Act's requirements, regardless of what label is attached to describe these features. Thus, the effect of incomplete optional features in a comprehensive plan depends on the nature of the Plan itself—the incompleteness could be meaningless or highly significant depending on the circumstances. As long as a comprehensive plan is internally consistent, and its adopted provisions comply with the GMA's requirements, it does not matter that the optional features have not been fully finalized.

Thus, the City has not violated the Act due to its failure to establish the precise boundaries of its preliminarily designated urban villages in West Seattle. There is nothing wrong, *per se*, with phasing implementation of optional features into a comprehensive plan. Indeed, Seattle has elected to do precisely that: phase in the establishment of exact hub and residential urban villages, and neighborhood anchor boundaries as the neighborhood planning process is completed for each neighborhood in the city. On the other hand, when the City designated urban center villages, it elected to establish their precise boundaries, albeit preliminary boundaries. This does not violate the Act either, unless it creates an internal inconsistency in the Plan. Thus, the question becomes whether Seattle's Plan is internally consistent because urban centers and the urban center villages within them have been adopted while hub and residential urban villages, and neighborhood anchors have not. Legal Issue No. 1 addresses that question.

CONCLUSION NO. 5

The fact that an optional feature of a comprehensive plan, such as an optional element or innovative land use technique, is incomplete is not a violation of the Act unless that lack of completeness creates an internal inconsistency in the comprehensive plan or otherwise results in a failure to comply with the requirements of the Act. An internal inconsistency in a comprehensive plan has a detrimental effect on that plan and would not be in compliance with the Act. The fact that Seattle has failed to make final designations of urban villages and neighborhood anchors and to establish the final boundaries of those villages and anchors does not, by itself, have an effect that violates the GMA.

E. LEGAL ISSUE NO. 1

Legal Issue No. 1 provides:

Are the Plan's following goals and policies consistent as required by RCW 36.70A.070?

Land Use Element Goals G1, G2, G40, G42, G47 and Land Use Element Policy L24; Housing Element Goals G4 and G11; and Transportation Element Goals G7, G9 and G13, and Transportation Element Policies T11 and T15-T20

with

Land Use Element Goals G5, G6, G22-G27 and Land Use Element Policies L1, L32, L36-L38, L41, L42, L45; and Housing Element Policies H26 and H29.^[18]

POSITION OF THE PARTIES

WSDF

WSDF contends that the Land Use Element Goals G1, G2, G40, G42^[19] and G47, and the Transportation Element Goals G7, G9 and G13 and Policies T11 and T15-20 are inconsistent with Land Use Element Goals G5, G6 and G22-27 and Policy L50 and L74, because the former series of goals and policies promotes and attempts to preserve large single-family areas of detached houses, while the latter series of goals and policies calls for supporting mixed uses and higher densities to support employment. WSDF's Brief, at 59-60.

WSDF also maintains that Land Use Element Policies L50 and L74 are inconsistent because they permit rezoning areas currently zoned single-family to increase density within an urban village. WSDF's Brief, at 60, and WSDF's Reply, at 47.

WSDF also contends that certain policies, "Land Use Element HG11, HG15 and HG31 (Comprehensive Plan at 12, 82-83, 86, and 88)," [WSDF's Brief, at 60-61]^[20] that encourage the availability of affordable housing throughout the city are inconsistent with other policies (Housing Element Policies H26 and H29) that call for 37 percent of expected growth in households to be low-income housing directed into 25 percent of the housing in each urban village. WSDF's Brief, at 60-61. WSDF claims that:

Policies that call for low-income housing to be made available throughout the city cannot be achieved if large percentages of low-income housing are targeted for urban villages in areas that already have low-income housing. WSDF's Brief, at 61.

WSDF alleges that the West Seattle portion of the city already houses a "substantial amount of low-income housing." WSDF's Brief, at 61.

The effect of the Plan on West Seattle would be to concentrate even more of the City's low-income housing in West Seattle, threatening to change its character, while other neighborhoods that do not have low-income housing and are not targeted for urban villages receive none. This is flatly inconsistent with King County Countywide Planning Policy AH-2(4)... WSDF's Brief, at 61, fn. 35. (emphasis in original); see also WSDF's Reply, at 48, fn. 31.

WSDF argues that, although low-income housing does not have to be distributed on every block in the city, it cannot be equally allocated if it is allocated by urban villages, since urban villages themselves are not allocated equally. Instead, the allocation methodology must take into account the existing distribution of low-income housing in order for new low-income housing to be rationally distributed. WSDF's Reply, at 48-49.

WSDF points out that the City recognized the possibility of internal inconsistency in the Plan as early as May, 1992. At that time, an assistant city attorney recommended that the City adopt language that left reconciliation and balancing of internal conflicts to the City Council while a City Council staff member advised that adopting such a strategy would make the whole planning exercise of little value since the requirement for internal consistency requires jurisdictions to resolve conflicts when comprehensive plans are adopted, not later. WSDF contends that the Plan incorporated the assistant city attorney's recommendation. Citing to the Board's decision in *Gutschmidt v. Mercer Island*, CPSGPHB Case No. 92-3-0006 (1992), WSDF contends that this strategy does not comply with the GMA since the Act requires the resolution of conflicts before adopting a comprehensive plan or at the time jurisdiction's adopt comprehensive plans, not afterwards. WSDF's Brief, at 62-63; WSDF's Reply, at 47.

Seattle

First, Seattle contends that the Act itself is internally inconsistent in some respects. As an example, the City points to the alleged inconsistency between RCW 36.70A.020(4) and RCW 36.70A.070(2)^[21]. Each provision promotes the preservation of existing housing, yet each also requires that additional affordable housing of all types be provided. City's Brief, at 89.

Second, the City claims that WSDF failed to identify any conflict between any of the policies identified in Legal Issue No. 1. Seattle points out that WSDF discussed Land Use Element Policies L50 and L74 which were not identified in Legal Issue No. 1 and therefore are beyond the scope of the appeal. City's Brief, at 90, fn. 75. In addition, for those policies that it did discuss, WSDF failed to identify any other policies with which these identified policies conflicted. City's Brief, at 90-91.

Third, the City maintains that, if one reads the actual language of the challenged Plan provisions, the alleged conflicts "are not apparent." City's Brief, at 91.

Fourth, the City contests WSDF's allegation that the urban village concept threatens the character of single-family neighborhoods. Instead, Seattle contends that the Plan directs most of the city's future growth away from land that was historically zoned "single-family":

...the 65% of the city zoned Single Family will be expected to take only a small proportion of the

household growth and virtually none of the expected employment growth that occurs over the next 20 years, while the 19% of the land in urban centers and urban villages is expected to take three-fourths of the residential growth and 80% of the employment growth. That is a strong commitment to protecting single-family areas. City's Brief, at 92-93.

Fifth, although the City argued that Land Use Element Policy L50 was not at issue, it nonetheless argues that there is nothing inherently inconsistent with Policy L50 being committed to protection of single-family areas while considering ways to increase housing opportunities in those areas.

... Accommodating change is the principal function of a comprehensive plan under GMA, and it is possible to introduce change into existing neighborhoods, even single-family neighborhoods, without doing any harm to those areas.... City's Brief, at 93.

Sixth, the City claims that by locating new low-income housing in urban villages, the City will disperse low-income housing throughout the city since urban villages are located throughout the city. City's Brief, at 94. However, the City maintains that its policies do not require all low-income housing to be located in urban villages; "... new low-income housing may be located outside of villages just as existing low-income housing is." City's Brief, at 94.

Finally, the City disputes that its Plan is inconsistent with the KCCPPs. Instead, it accuses WSDP of "misreading" them. City's Brief, at 94, fn. 79.

BOARD DISCUSSION

The preamble to RCW 36.70A.070 provides:

The comprehensive plan of a county or city that is required or chooses to plan under RCW 36.70A.040 shall consist of a map or maps, and descriptive text covering objectives, principles, and standards used to develop the comprehensive plan. The plan shall be an internally consistent document and all elements shall be consistent with the future land use map. A comprehensive plan shall be adopted and amended with public participation as provided in RCW 36.70A.140. (emphasis added).

In *Aagard et al v. Bothell*, CPSGMHB Case No. 94-3-0011 (1995), the Board held that local jurisdictions planning under the Act must comply with this introductory paragraph. *Aagard*, at 13. Although the Act requires comprehensive plans to be internally consistent, it does not provide any indication as to how to measure such consistency. However, the Procedural Criteria do address the meaning of internal consistency.^[22] As a general proposition, the Board agrees with the Procedural Criteria: internal consistency means that provisions are compatible with each other—that they fit together properly. In other words, one provision may not thwart another. However, the Board finds that consistency can also mean more than one policy not being a roadblock for another; it can also mean that policies of a comprehensive plan, for instance, must work together in a coordinated fashion to achieve a common goal.

Before turning to the specifics of this legal issue, a discussion about the Plan in general and its implementation of the urban villages strategy through the neighborhood planning process in particular is necessary. One significant problem with the Plan is its lack of clarity which makes it difficult to read and understand, and may cause unnecessary confusion. For instance, the Vision Resolution that serves as a preamble to the Plan, goes into great detail explaining the importance of the urban villages strategy. It explains that the urban villages strategy is a "key component" of the City's "unifying goal" "to preserve the best qualities of Seattle's distinct neighborhoods." Exhibit 1, at ix.^[23] Yet the Vision Resolution makes no clear mention of the fact that the urban villages strategy is intended to be phased in over time. Instead, Part C of the Vision Resolution simply states:

Neighborhood Planning will follow the adoption of the plan and will produce amendments that tailor the plan's citywide perspective to individual urban and manufacturing centers, villages and neighborhoods. Neighborhood plans are expected to continue to aid in adjusting and fine-tuning the plan over time. Exhibit 1, at x (emphasis added).

Thus, although it is evident that the neighborhood planning process is something that will take place in the future, nothing in the introductory portions of the Plan forewarns the reader that the urban villages strategy and the neighborhood planning process are closely tied together and that full implementation of the urban villages strategy will not take place until the neighborhood planning process has been completed. This can be particularly confusing to, for instance, a citizen who has attempted to track the City's GMA planning process from its inception and who has become sensitized to (or at least expectant of) the "urban village" strategy being fully adopted as recommended by the Mayor.

Not until turning to the Plan itself can one begin to understand that most of the policies indicate or at least imply that the neighborhood planning process is to take place in the future. *See* Land Use Element Policy L8 and L14 for example. In order to confirm that the numerous references to the neighborhood planning process connotes a future process, one must first read the Neighborhood Planning Element of the Plan, an optional element, located at the end of the Plan.

If one understands the timing of the neighborhood planning process, then a *close reading* of many policies and goals will reveal that the implementation of many the Plan's urban villages policies has been deferred until an unspecified future date. The following list contains examples of those policies that either indicate on their face or by implication by their reference to neighborhood planning that they will not be implemented until the neighborhood planning process:

Land Use Element Policies L8, L9, L10, L13, L14, L19, L33, L44, L50, L54, L58, L59, L61, L74, L83, L101, L107, L137, L147, L148, L149, L150, Goals G26 and G36; Transportation Element Policy T46; Housing Element Policy H29(c); Capital Facilities Plan Element Policy C8; and the Neighborhood Planning Element Goal G6 and Policy N14.

Another aspect of the Plan that may be confusing is the distinction between an urban village being *preliminarily* "designated" and the actual boundary of that designated urban village being "established." Many readers may have a difficult time even noticing, let alone understanding, the difference. Yet, based upon a close and time-consuming reading of the Plan, one can ascertain that not only the final

designations but the establishment of final boundaries for hub urban villages, residential urban villages and neighborhood anchors, and the permanent boundaries for urban center villages, have not yet been adopted but instead, will take place through the neighborhood planning process.

The Board makes another general observation about the Plan before turning to the specifics of the issue. The entire Plan, but particularly its policies, appear to fall into two categories: policies that address time, and policies that specify the level of directiveness. In turn, each of these categories has two subsets. The temporal category includes both goals and policies that will be implemented in the future and goals and policies that apply now. The level-of-directiveness category also has two subsets: goals and policies that are very directive, and those that are very general. As discussed above, numerous policies, by referring to the neighborhood planning process, indicate on their face that they will not be implemented until the future. Other policies, by implication, will not become effective until the future, and this is based upon independent reader knowledge such as knowing that references to "zoning" refer to the implementing development regulations yet to be enacted at the time the Plan was adopted. See Land Use Element Policies L20 and L22 for examples.

In addition, some policies, when read in isolation, are apparently in full force now, even though that is not truly the case. This occurs because the policy statement either uses the present tense or does not refer to the neighborhood planning process. However, when one reads the policy in question in full context of where it is arranged in the Plan, one gleans that the specific policy in question will not become effective until the neighborhood planning process is complete. For example, Land Use Element Policy L45 indicates: "Require that a residential urban village surround one or more center of activity and services."

One who reads solely that policy will not know that it will not take effect immediately. Instead, one needs to read the policy in the context of the section heading where it is located, "Residential Urban Villages," and use the knowledge gained from reading other policies that residential urban villages will not be fully adopted until an unknown future time.

Turning then to Legal Issue No. 1, the question becomes, how can one interpret those goals and policies that WSDF has challenged as being inconsistent given these general observations about the Plan and within the context of following:

Designations

Urban centers have been designated.

All three categories of urban villages and neighborhood centers have been *preliminarily* designated.

Boundaries

The boundaries of designated urban centers have been established.

The boundaries of designated urban center villages have been established (albeit on a preliminary basis).

The boundaries of designated hub and residential urban villages (and neighborhood anchors) have not yet been established.

Adoptive Actions

Only urban centers and urban center villages within them have been adopted; hub and residential urban villages, and neighborhood anchors have not yet been adopted.

First, the Board resolves WSDF's claim that Land Use Element Goals G1, G2, G40, G42 and G47 and Transportation Element Goals G7, G9 and G13 and Transportation Element Policies T11 and T15-T20 are inconsistent with Land Use Element Goals G5, G6 and G22-G27 and Land Use Element Policies L50 and L74. The complete text of the goals and policies listed in this issue is set forth in the attached Appendix A to this Final Decision and Order.

The Board holds that these goals and policies are consistent. Comprehensive plans and development regulations are to be guided by the Act's planning goals. The housing goal states:

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 the preservation of existing housing stock. RCW 36.70A.020(4).

Furthermore, a comprehensive plan is required to contain:

(2) A housing element recognizing the vitality and character of established residential neighborhoods that: (a) Includes an inventory and analysis of existing and projected housing needs; (b) includes a statement of goals, policies, and objectives for the preservation, improvement, and development of housing; (c) identifies sufficient land for housing, including, but not limited to, government-assisted housing, housing for low-income families, manufactured housing, multifamily housing, and group homes and foster care facilities; and (d) makes adequate provisions for existing and projected needs of all economic segments of the community. RCW 36.70A.070(2).

The fact that the Act requires cities and counties to preserve existing housing while promoting affordable housing and a variety of residential densities and housing types is not inconsistent. More important, even if there were an inconsistency, no jurisdiction is required to reconcile it by totally focusing on one requirement, for instance preserving existing housing, to the exclusion of other requirements, such as encouraging more affordable housing. Instead, jurisdictions must reconcile the Act's seemingly contradictory requirements by applying and necessarily balancing them. Thus, Seattle's policies to preserve the character of existing single-family residential areas (Land Use Element Goal G42 and G47) are not inconsistent with increasing the densities in urban villages (Land Use Element Goals G6, G22, G23 and G25 for instance). Moreover, WSDF has not shown in a convincing manner why these policies are inconsistent.

Next, the Board examines WSDF's contentions regarding Land Use Element Policies L50 and L74. As noted by the City, these two policies are not enumerated in the recitation of policies listed in Legal Issue No. 1. Therefore, the Board need not examine them. Nonetheless, the Board holds that even if these policies had been listed in Legal Issue No. 1, they would not be inconsistent. The Board will make only

three points about these policies.

First, WSDF has not made a satisfactory showing that they are inconsistent. Second, because they are tied to the neighborhood planning process, they will not be implemented, if ever, until sometime in the future. Third, even if the Board assumes that the neighborhood planning process succeeds in establishing an urban village boundary that includes areas that today are single-family areas, that would not violate the Act's internal consistency requirement.

Land Use Element Policy L50 calls for the "protection" of single-family areas. It implies that, through the neighborhood planning process, multi-family housing may be permitted in areas that are currently single-family. Policy L74, much less vaguely, asserts that areas currently zoned single-family can indeed be rezoned to a multi-family designation if certain conditions are met. The fact that the Plan establishes a general policy (i.e., protect single-family areas) but also allows exceptions to that general policy (i.e., allow rezoning in certain instances to multi-family) is not inconsistent.

WSDF also contends that certain goals, Housing Element Goals G11 and G15^[24] and Land Use Element Goal G31^[25] are inconsistent with Housing Element Policies H26 and H29. WSDF's Brief, at 60-61. Of these three goals, only G11 is listed in Legal Issue No. 1.

Housing Element Goal G11 constitutes a recitation of various federal, state and local laws unrelated to the GMA. WSDF has not shown how any other goal or policy is inconsistent with Housing Element Goal G11.

Housing Element Goal G15, is not listed in Legal Issue No. 1. Although Land Use Element Goal G31, like Housing Element Goal G15, is not listed in Legal Issue No. 1, the Board will nonetheless review them both for any inconsistency with Housing Element Policies H26 and H29. The Board conducts this expanded review because a broader question of consistency is before the Board than those limited number of goals and policies listed in Legal Issue No. 1 due to the incompleteness of the Plan. See Legal Issue Nos. 4 and 5 above.

Land Use Element Goal G31 (Exhibit 1, at 27) provides as follows:

Distribute the additional 50,000–60,000 households (52,500–63,000 dwelling units) and 131,400–146,600 jobs called for in this plan among the various areas of the city as follows:

Land Use Figure 7
Growth Targets
Distribution of Growth Inside and Outside Centers and Villages

Category	% of Citywide Residential Growth	% of Citywide Employment Growth
Urban Centers	45% (22,500–26,700	65% (85,410–95,500 jobs)

	households)	
Manufacturing/ Industrial Centers	No housing target	10% (13,140–14,660 jobs)
Urban Villages	30% (15,000–18,000 households)	No Target for Residential Urban Villages Hub Urban Villages only: 15% (19,700–21,990 jobs)
Remainder of City	25% (12,500–15,300 households)	No Specific Target
<hr/>		
Totals	[100%] 50,000–60,000 households	[90%] 131,400 ^[26] –146,600 ^[27] jobs

According to Land Use Figure 7, the additional population growth projected for Seattle in the next 20 years will be between 50,000 and 60,000 household units. Of that total, 75 percent will be directed to urban centers and urban villages (i.e., between 37,500 and 45,000 household units). The remaining 25 percent (between 12,500 and 15,000 units) will go to areas outside of urban centers and villages.^[28]

Pursuant to Housing Element Policy H26, 37 percent of the expected household growth for Seattle in the next 20 years will go to "housing affordable to low-income households" (i.e., between 18,500 and 22,200 units).^[29]

Pursuant to Housing Element Policy H29, at least 25 percent of the housing in each urban center and urban village should be housing affordable to those whose median income is below 50 percent (i.e., between 9,375 and 11,250 households).^[30]

SUMMARY: of the maximum 60,000 additional households expected throughout the city, a maximum 22,200 must be affordable housing units and, of that total, a maximum 11,250 must be affordable housing units located within urban centers and villages. Thus, 51 percent of the total additional affordable housing units will be located within urban centers and villages while 49 percent of the total additional affordable housing units will be located outside urban centers and villages.

The question is, is the fact that Housing Element Policy H26 requires that 37 percent of all new growth must be affordable housing, and that Housing Element Policy H29 directs that 25 percent of all housing in urban centers and villages must be affordable, inconsistent with the fact that Housing Element Policy G15 attempts to disperse housing opportunities for low-income households throughout the city?

In order to determine the answer to this question, one needs to know the total acreage of:

the City of Seattle = 53,813 acres [Exhibit 1A, Land Use

Appendix D, at A11; Land Use Figure A-10, at A25]

designated urban centers = 3,334 acres [Exhibit 1A, Land Use Appendix B, at A6-A7]

designated urban villages^[31]

hub urban villages = 2,402 acres [Exhibit 1A, Land Use Appendix B, at A7]

residential villages = 3,988 acres [Exhibit 1A, Land Use Appendix B, at A7]

9,724 (18%) = TOTAL ACREAGE OF URBAN CENTERS AND VILLAGES

44,089 (82%) = TOTAL ACREAGE OUTSIDE OF URBAN CENTERS AND VILLAGES

53,813 (100%) = TOTAL ACREAGE OF THE CITY OF SEATTLE

Therefore, by combining the acreage results with the conclusion reached above from the analysis of Land Use Element Goal G31 and Housing Element Policies H26 and H29, one determines that 51 percent of the additional affordable housing will go within 9,724 acres of urban centers and villages while 49 percent of the additional affordable housing will go onto 44,089 acres outside of urban villages and centers.

As the Board's analysis reveals, putting 51 percent of additional affordable housing units into 18 percent of the land mass of the City is not an even geographic distribution of affordable housing units.^[32]

However, Housing Element Goal G15 simply requires the City to disperse housing opportunities for low-income households throughout the City. It does not require that these housing opportunities be evenly dispersed. Therefore, the Board holds that Land Use Element Goal 31, Housing Element Policies H26 and H29 are consistent with Housing Element Goal G15.

Finally, the Board notes that WSDF has not briefed why Land Use Element Policies L1, L24, L32, L36-L38, L41, L42 and L45 are inconsistent. Typically, the Board would therefore treat as abandoned that portion of Legal Issue No. 1 related to these policies. However, because the Board has ruled in Legal Issue Nos. 4 and 5 above that the result of an "incomplete" plan is that it cannot be internally inconsistent, the Board nonetheless reviewed these abandoned policies. The majority of these policies clearly deal with future events: once boundaries are established for hub and residential urban villages, some of these policies may become internally inconsistent with others. However, the exact boundaries of hub and residential urban villages are unknown and, accordingly, the Board finds no internal inconsistency. As for the other policies, they are written in such a general manner that the Board cannot determine, on their face, how these policies may be inconsistent with other policies (e.g., Land Use Element Policy L1, L24, and L36).

CONCLUSION NO. 1

WSDF has not shown how the Plan's goals and policies listed in Legal Issue No. 1 are internally inconsistent. Accordingly, the Board concludes that the City has complied with the internal consistency requirements for those challenged goals and policies.

F. BACKGROUND TO LEGAL ISSUE NO. 2

The Plan's capital facilities element is found in Exhibit 1, at 92 through 97. The following gives a summary statement of each of the Act's subsections at RCW 36.70A.070(3) for the capital facilities plan element of a comprehensive plan, followed by a discussion of what the City did in response to comply with that requirement.

(a) An inventory of existing capital facilities owned by public entities, showing the locations and capacities of the capital facilities;

Part B of the capital facilities plan element is entitled "Inventory of Future Needs for Capital Facilities." The inventory of existing capital facilities required by RCW 36.70A.070(3)(a) "...is contained in Appendix A to this element of the Plan..." Exhibit 1, at 95. The actual inventory is located in the Appendices to the Plan (i.e., Exhibit 1A), under the heading "Appendices of the Capital Facilities Element." Appendix A of that section is titled "Inventory of Existing Facilities and Supplemental Capacity Information." It is broken down into sections for parks and recreation facilities, Seattle Public Library, general government, fire department, police department, Seattle Center, public health, publicly-assisted housing and public schools. In addition, a series of maps, Capital Facilities Figures A-1 through A-10, are included in Appendix A to show the locations of listed facilities. Exhibit 1A, at A114 through A132.

(b) a forecast of the future needs for such [existing] capital facilities [owned by public entities];

Part C of the capital facilities element of the Plan is titled "Forecast of Future Needs for Capital Facilities." It provides in full:

Seattle is already a well-built urban area. The basic infrastructure necessary to serve the current population and the small amount of growth expected in the next six years already exists. Significant major maintenance needs for our existing facilities have been identified, and the City is exploring ways to remedy the existing backlog over time. Forecasted future capital needs are listed by department in the 1994-1999 CIP, and those lists are incorporated into this plan element.

In addition, various departmental and city-wide planning efforts in recent years have identified many *capital enhancements* that would be desirable in order to increase the services and opportunities that city government provides to our citizens. The City will seek additional resources to fund some of these desired amenities. Exhibit 1, at 95-96. (emphasis added).

The City's "Capital Improvement Program" (CIP) for 1994-1999 is Exhibit 1.32, entitled: "Seattle 1994 Adopted Interim Capital Facilities Plan—1994-1999 Capital Improvement Program." Although the precise date of adoption is not listed, the CIP was adopted before the City adopted its Plan. The "Introduction" chapter provides a narrative describing the CIP process.^[33]

(c) the proposed locations and capacities of expanded or new capital facilities;

Part D of the Plan's capital facilities plan element is called "Proposed New or Expanded Capital Facilities." It provides in full:

The 1994-1999 CIP lists the proposed locations and capacities of the new or expanded capital facilities the City contemplates funding in the next six years, and that listing is incorporated herein. Consistent with the overall plan, emergencies, other unanticipated events or opportunities, and voter approvals of ballot measures, may result in some departure from the adopted CIP. Supplemental capacity information for some new or expanded projects listed in the CIP is provided in Appendix A of this element. Additional information for transportation is found in that element. Exhibit 1, at 96 (emphasis added).

In turn, the 1994-1999 CIP shows and discusses the proposed locations of new or expanded capital facilities department by department.

The "supplemental capacity information" quoted from the Plan above is included in Appendix A. Exhibit 1A, at A115-A122. For instance, regarding parks and recreation facilities, Appendix A indicates that "five new community centers will expand the capacity by over 70,000 sq. ft." Exhibit 1A, at A116.

(d) at least a six-year plan that will finance such [expanded or new] capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes [i.e., a financing plan];

Part E of the capital facilities element of the Plan is the "Six-Year Finance Plan." It provides in full:

The 1994-1999 CIP shows, for each new or expanded capital facility proposed by the City, the sources of funding the City anticipates using for that facility, and that listing is incorporated herein. These allocations may change over time. Emergencies and unanticipated circumstances may result in allocating resources to projects not listed. This six-year finance plan shows full funding for all improvements to existing facilities and for new or expanded facilities the City expects to be needed to serve the existing and projected population through 1999. Additional information for transportation is found in that element. Exhibit 1, at 96 (emphasis added).

(e) a requirement to reassess the land use element if probable funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent.

Part F of the capital facilities plan element of the Plan is "Consistency and Coordination." It provides in full:

Current projections show that probable funding will be sufficient to meet all the currently identified needs for new or expanded city capital facilities through the year 1999. Should anticipated funding not materialize, or should new needs be identified for which no funding is determined to be probable, the City will reassess the land use element of this Plan to ensure that it is coordinated with

and consistent with this element, and in particular with the six-year finance plan. A review for coordination and consistency between this Element and the Land Use Element will be part of the City's annual budget review and Comprehensive Plan amendment processes. Exhibit 1, at 96 (emphasis added).

In addition to the requirements of RCW 36.70A.070(3), the introductory paragraph of RCW 36.70A.070 requires that all elements of a comprehensive plan be consistent with the future land use map. Based on these provisions, WSDF has raised Legal Issue No. 2.

G. LEGAL ISSUE NO. 2

Is the future land use map for West Seattle inconsistent with the infrastructure that has been planned for it in the Plan in violation of RCW 36.70A.070?

POSITION OF THE PARTIES

WSDF

WSDF contends that future land use map provisions of RCW 36.70A.070, coupled with RCW 36.70A.020 (12) and RCW 36.70A.070(6)(e), require that all the Plan's elements, including its capital facilities element, provide infrastructure necessary for and consistent with the growth delineated on the future land use map. WSDF's Brief, at 13-14. WSDF points out that, although the King County Countywide Planning Policies (**KCCPPs**) require the City to include "urban centers" within its Plan, the KCCPPs do not require urban villages. Because the City elected to use an urban village strategy, WSDF alleges that the City must comply with the requirement that the City's capital facilities element be consistent with its future land use map.

Citing to a recent Western Washington Growth Management Board decision, *Berschauer v. City of Tumwater*, WWGMHB Case No. 94-2-0002, WSDF contends that Seattle must analyze each area of the city to determine whether the Plan complies with RCW 36.70A.020(12), including each of the urban villages "designated" on the future land use map. WSDF's Brief, at 15; WSDF's Reply, at 12.

Specifically:

...Seattle's reliance (however tentative) on areas known as urban villages in its future land use map as major receptors of growth must be accompanied by concurrency and facilities planning to ensure that adequate public facilities, services and transportation necessary to support development accompanying these urban villages will be in place at the time the development is available..... WSDF's Brief, at 16.

WSDF contends that a separate "mini" plan is not required for each urban village, but that the individual elements of the City's Plan must address or discuss the particular urban villages chosen by the City. "[O]therwise there is no record that the particular urban village designations will comply with the GMA requirements." WSDF's Reply, at 14. WSDF also argues that *Berschauer* applies whenever a comprehensive plan allocates population and density differently among different areas of an overall

comprehensive planning area. Because 75 percent of all new growth is to be distributed into the three types of urban villages, the rule in *Berschauer* must be applied to the City's use of urban villages. WSDF's Reply, at 16-19.

WSDF points out that, not only has the City failed to establish boundaries for "any" of its urban villages, but that the Plan fails to contain concurrency and facilities planning for "each of these specific urban village areas." WSDF's Brief, at 16.

WSDF cites the number of fire stations in West Seattle and the fact that no police stations exist there. It complains that the Plan's capital facilities element does not contain any analysis as to whether existing facilities in West Seattle would be sufficient to serve the growth allocated to West Seattle through the four urban villages for that portion of the city. WSDF maintains that this analysis is required by RCW 36.70A.020(12) and .070(3). WSDF's Brief, at 17. WSDF attacks the City's "strategic capital investment plan" (SCIP) [see Capital Facilities Plan Element Policy C1, Exhibit 1, at 93] as skipping the capital facilities financial planning required by the Act. WSDF claims the City is substituting "... a future strategic process not yet developed for the GMA's requirements. WSDF's Brief, at 18 (emphasis in original).

No Capital Facilities finance plan is included; instead, the City relies on its 1994-1999 Capital Improvement Plan, which was itself was not even included within the Comprehensive Plan or its appendices (although the Plan [Exhibit 1, at 96, ¶ E] states that the CIP has been "incorporated" within it). WSDF's Brief, at 18.

Furthermore, WSDF contends that the CIP on which the Plan relies itself acknowledges that it is insufficient. "... [T]he capital facilities element [of the Plan] relied on the CIP as the necessary finance plan, but the CIP states that it does not go the distance required by the GMA." WSDF's Brief, at 19. WSDF alleges that the Plan failed to provide concurrency or facility planning for specific urban villages. WSDF cites to portions of the record where the City was warned that it must conduct a capital facilities analysis as to how the urban villages vision was to be realized. WSDF's Brief, at 19-20. Instead, WSDF claims that the City reacted by offering promises of a future, yet to be adopted "Strategic Capital Improvement Plan". WSDF contends that this type of information must be included in the Plan rather than be formulated after the Plan has been adopted. WSDF's Brief, at 21.

WSDF also argues that, even if no growth would occur within the next six years, the City cannot avoid the requirement for a capital facilities plan over the 20-year life of the Plan. WSDF's Reply, at 20-21. The CIP that the City relies upon, WSDF contends, identifies only some of the City's future needs—needs identified through the City's traditional process. WSDF's Reply, at 21, citing to the CIP (Exhibit 1.32, at 3). WSDF maintains that the City must identify all capital facilities needed for urban villages over the Plan's 20-year time frame. WSDF's Reply, at 22.

In addition, WSDF alleges that the City's SCIP process and the Plan itself fail to contain a phased schedule. Therefore the growth planned for urban villages could happen at any time. Even the neighborhood planning process, upon which final urban village boundaries depend, could take place within the next four years. "... The City's bare, unsupported statement that only 12 percent of the growth

will occur in the first six years does not justify the truncated six-year finance plan." WSDF's Reply, at 23-24. WSDF then lists citations from the record indicating that the projected revenues and expenditures in the six-year finance plan alone do not adequately portray the magnitude of potential growth impacts on existing or new capital facilities. WSDF's Brief, at 24-30. WSDF contends that many of what the City claims were "wishes" for future amenities, were instead actually capital facilities needs. WSDF's Reply, at 28.

WSDF cites to the Board's *Rural Residents* decision for the proposition that the planning goal at RCW 36.70A.020(12), to "ensure" the availability of public facilities and services, is a mandatory requirement. WSDF's Brief, at 22-23. WSDF contends that the mechanism for ensuring such services is the capital facilities element of the comprehensive plan. Because Seattle has not fully addressed necessary future capital facilities needs, "either on an urban village-specific basis or otherwise", WSDF alleges that the future land use map is "inconsistent with the infrastructure (or lack thereof) planned for it." WSDF's Brief, at 24.

Seattle

Initially, the City disputes WSDF's contention that there must be a "mini-comprehensive plan" for each urban village. Seattle argues that a comprehensive plan is defined in the Act as a "generalized coordinated land use policy statement" (*see* RCW 36.70A.030(4)) and that RCW 36.70A.070(1) requires only that plans identify the "proposed general distribution and general location" of land uses. Seattle cites to the Board's *Northgate Mall Partnership v. Seattle* ^[34] decision to support this contention. City's Brief, at 53-54.

Seattle also contends that WSDF misreads the Western Board's *Berschauer* decision and contends that the sub-area planning process involved in that case is different from Seattle's urban villages strategy. While the City of Tumwater's comprehensive plan at issue in *Berschauer* was "an aggregation of sub-area plans, Seattle's Plan is self-contained regardless of whether its provisions are amplified through the adoption of neighborhood plans or by other actions." City's Brief, at 55.

The City agrees that West Seattle, like many other neighborhoods within the city, lacks certain public facilities. The City contends however, that the key question is whether adequate infrastructure will be available over the 20-year life of the Plan to support the projected increases in population as they occur. The key question is not whether a particular facility is located in a neighborhood. City's Brief, at 57.

Seattle presumes that only 12 percent, or 9,000 additional people, are expected to increase Seattle's population in the first six years of the Plan. Therefore, the City concluded that the necessary basic infrastructure already exists to serve the current population and the relatively small amount of growth expected in the next six years. City's Brief, at 57-58, quoting the Plan (Exhibit 1, at 95). The City contends that this conclusion is bolstered by the fact that Seattle's population has dropped from 557,087 people in 1960 to 516,259 people in 1990 (*see* Exhibit 1.20, Figure 1-3, at 9), and the Final Environmental Impact Statement (**FEIS**) "overall conclusion" that since most of the city already has urban services, new development can take advantage of existing road networks and other services without major new expansions. Exhibit 1.28, at 5.

Seattle contends that WSDF is attempting to have the Board focus on the availability of amenities^[35] rather than on the adequacy of infrastructure to accommodate anticipated growth. Seattle suggests that examples of amenities might be "picnic shelters at parks and a driving range at a golf course." City's Brief, at 59, fn. 51 citing to Exhibit 1.32, at 87.

In other words, WSDF wants the Board to measure the Plan's capital facilities and transportation elements against "wish lists" of potential public facilities, rather than against the standard of "future needs" contained in the GMA. City's Brief, at 59.

The City rejects what it refers to as WSDF's "amenities test" as not required by the GMA. Seattle argues that the Act's goal of ensuring adequate infrastructure is geared toward the adequacy of infrastructure to support the conversion of undeveloped land into urban land and "has limited application to areas, like Seattle, which have long provided urban governmental services." City's Brief, at 60. The City therefore asks the Board to recognize that a highly urbanized area like Seattle already provides those urban governmental services that are necessary to support expected growth. City's Brief, at 60.

The City also maintains that the reference in RCW 36.70A.070(3)(b) to "needs" is referring to facilities which are needed to provide adequate infrastructure, not a list of needed amenities. Therefore, a jurisdiction is not required to identify all capital improvements it would like to make.

...Instead, the consistent focus of the GMA is upon the "adequacy" of facilities to accommodate additional population, RCW 36.70A.020(1), (12), and upon services which are "required" to serve growth, rather than merely desirable. RCW 36.70A.030(15). City's Brief, at 61 (footnote omitted).

Seattle points out that the Plan acknowledges the crucial distinction between basic infrastructure (which is necessary to serve the existing and future population) and amenities (capital enhancements that would be desirable). City's Brief, at 62.

Seattle also disputes that its Plan fails to include a six-year CIP. The City contends that Section D of the capital facilities plan element incorporates by reference the 1994-1999^[36] CIP [i.e., Exhibit 1.32], and that incorporation by reference is a time-honored method of legal drafting. City's Brief, at 63.

In response to WSDF's attacks on the SCIP process, the City claims:

Given the presence of portions of the CIP in the Plan, albeit by reference, and the Council's unremarkable finding that the City's infrastructure can accommodate 9,000 additional people in the next six years, WSDF's argument that the City deferred analysis of the infrastructure "needs" until the City implements a proposed "strategic capital investment plan" process is puzzling. That process was proposed as an enhancement of the City's traditional, six year CIP; it never served to defer the capital facility needs analysis as claimed by WSDF. City's Brief, at 63-64.

... in the context of the GMA's focus on the adequacy of infrastructure in urbanizing areas, the fact

that Seattle has a mature infrastructure more needful of vigorous maintenance than system expansion, and that the City anticipates only modest population growth over the next six years, major system expansion is not needed.... City's Brief, at 65.

BOARD DISCUSSION

Legal Issue No. 2 deals with the amount of analysis a city or county must conduct and show in its comprehensive plan that examines that jurisdiction's existing capital facilities or infrastructure (excluding transportation) and what changes (improved maintenance, replacement, additional construction) to that infrastructure, if any, should be made in order to accommodate anticipated population and employment growth.

Anticipated population growth is initially derived, per county, from the Washington Office of Financial Management (**OFM**) for use by counties in designating urban growth areas. Although OFM has its own requirements for deriving its population projections (*see Kitsap County v. OFM*, CPSGMHB Case No. 94-3-9914 [1995]), OFM is not required to ascertain if the state, and its political subdivisions, have the infrastructure, either now or in the future, to accommodate the projected growth. The GMA leaves to cities and counties the task of how to manage the projected growth through the comprehensive planning process.

RCW 36.70A.030(4) defines "comprehensive plan" as "a generalized coordinated land use policy statement of the governing body of a county or city that is adopted pursuant to this chapter."

The Board agrees with Seattle that its Plan need be only a generalized document with citywide application. Indeed, in *Northgate Mall v. Seattle*, CPSGPHB Case No. 93-3-0009 (1993), the Board held that the term "generalized" refers to the entire geographic area within a city or county. *Northgate Mall*, at 15. Accordingly, had Seattle adopted its Plan without its "urban villages strategy," it truly would have been a "generalized" policy statement of citywide application. As a result, the City's capital facilities analysis could have been generalized city-wide.

However, the City elected to adopt a portion of the Mayor's urban villages concept^[37] and by doing so, a portion of the Plan became a document with substantial localized focus and implications. The City has adopted (i.e., the designations have been made and the boundaries have been established) five urban centers and the urban villages within them. The five adopted urban centers total 3,334 acres or 6 percent of the city's total acreage. *See* Exhibit 1A, Land Use Appendix B, at A6-A7; total derived by adding totals for each center. Pursuant to Land Use Figure 7, 45 percent of the city's additional projected population and 65 percent of its employment growth will be distributed to urban centers.

Furthermore, because the only urban villages that have been adopted to date are urban center villages within urban centers, the 30 percent of population growth eventually targeted for all urban villages (Land Use Figure 7) will be directed only to urban center villages until hub and residential urban villages are adopted. Therefore, at least in the near term, 75 percent of population growth will be directed to 6 percent of the total acreage of Seattle. Eventually, as previously discussed, urban centers and villages may constitute 18 percent of Seattle's land mass.

The Board disagrees with Seattle's argument that it was not required to conduct specific capital facilities analysis on its adopted urban centers and villages. Although the City need not conduct such analysis yet on its hub and residential urban villages, because they have not been adopted, it must do so for urban centers and the villages within them. It is not the fact that the City has developed an urban villages strategy *per se* that requires adequate localized capital facilities analysis; it is the fact that so much population and employment growth has been concentrated in such small localized areas of the city that demands the analysis. Thus, the Board rejects the City's argument that because a comprehensive plan only has to be generalized, that the City did not have an obligation to do more localized planning and analysis. Although that would have been the case without urban centers or villages being included in the Plan, the City not only created but "opened its own door" when it added these categories^[38]. Therefore, it must conduct the necessary analysis required by RCW 36.70A.070(3) for its adopted urban centers and villages.

RCW 36.70A.070(3)(a) requires the City to do an inventory of existing capital facilities owned by public entities, showing the locations and capacities of the capital facilities. Appendix A of the Appendices of the Capital Facilities Element (Exhibit 1A, at A115) contains precisely such an inventory for many "public facilities" as defined by RCW 36.70A.030(13).^[39] It does not contain an inventory, with capacities shown, of "domestic water systems and storm and sanitary systems." The Board recognizes both that RCW 36.70A.070(3)(a) requires an inventory of "capital facilities owned by public entities" and the fact that "capital facilities" are not defined by the Act. However, "public facilities" are defined in the GMA. Accordingly, the Board holds that, for purposes of conducting the inventory required by RCW 36.70A.070(3)(a), "public facilities" as defined at RCW 36.70A.030(13) are synonymous with "capital facilities owned by public entities."

Although the CIP does contain chapters on drainage and wastewater utility, solid waste utility and the water department, Part B of the Capital Facilities Plan Element, i.e., the City's inventory, does not incorporate by reference the CIP. Therefore, the City has not conducted a general inventory of water, storm and sanitary system. Furthermore, the Plan's inventory does not contain an inventory in particular of the adopted urban centers' and villages' capital facilities. The purpose of conducting an inventory of existing capital facilities is to assess whether they are adequate to serve the projected additional population and employment growth.

RCW 36.70A.070(3)(b) requires a forecast of "future needs" for such existing capital facilities. WSDF challenges the City for failing to adequately conduct this analysis and the Board agrees. The Plan simply indicates that the City is already well-built and that the basic infrastructure to serve the current population and the small amount of projected population increase in the next six years already exists.^[40] Exhibit 1, Part C, at 95. Part C also incorporates by reference the CIP. Although the City's conclusion may prove to be accurate, the Plan currently lacks the requisite analysis to verify this.

The claim that the city had more population in 1960 than it does today, although a true statement, does not replace the need to determine whether today's capital facilities are adequate. Capital facilities that were adequate in 1960 may now be inadequate, even though the city has a smaller population, for many

reasons, such as lack of appropriate maintenance on them, their age, or the fact that more people may actually use them due to the region's population increase. What is missing from the Plan is analysis showing that *this growth can be accommodated* by the adopted urban centers and villages—localized areas where the vast majority of the City's additional population and employment growth will be directed.

The City knows the precise boundaries (*see* Exhibit 1, Land Use Figures 2, 3, 4, 5) and acreage (*see* Exhibit 1A, Land Use Appendix B) of its urban centers and urban center villages. Yet nowhere in the Plan, the Plan's Appendices or the CIP is there any analysis of whether and how the existing public facilities accommodate the projected growth.

Again, such detailed analysis might be unnecessary were the Plan a purely generalized document for a city where new growth will be dispersed evenly throughout the geographic area; that is not the case with Seattle. It has elected to concentrate growth, for admirable reasons, into small portions of the city. Although the City's vision of compact urban development has merit, RCW 36.70A.030(3) requires that visions be grounded in reality. To do this, Seattle must conduct an adequate analysis of infrastructure for the adopted urban centers and villages.

The first word of Land Use Element Goal G31 is "distribute", an unmistakably directive verb. The Board has previously held that GMA policy statements are both substantive and directive, and that great care must be taken when selecting action verbs (e.g., "adopt" vs. "study"). *See Snoqualmie v. King County*, CPSGPHB Case No. 92-3-0004 (1993), at 14. The City has characterized its "goals" as "the results that the City hopes to realize over time." Exhibit 1, at 2. While the City correctly notes that goals are not guarantees or mandates, it is clear that the intent and direction of Goal G31 is that the amount of population and employment noted in Land Use Figure 7 be directed to the urban centers and villages. Furthermore, once the analysis is conducted, it must be included in the Plan or, as the Board has previously authorized in numerous cases, incorporated by reference.

RCW 36.70A.070(3)(e) requires a city or county to reassess its land use element "if probable funding falls short of meeting existing needs..." (emphasis added). Seattle has concluded that its funding sources for the next six years "will be sufficient to meet all the currently identified needs for new or expanded city capital facilities. Exhibit 1, at 96, Part F (emphasis added). *See* also the CIP and the FEIS—Exhibits 1.32 and Exhibit 1.28 respectively. Seattle has not shown that it does not need new or expanded capital facilities in the next six years for its adopted urban centers and villages.

Moreover, subsection (3)(e) addresses "existing needs." The Board holds that the phrase "existing needs" refers not only to the construction of new or expanded capital facilities that can be currently identified as needed, but also the *maintenance* of existing capital facilities. As a matter of sound public policy, a city or county should not plan for additional growth and the associated additional capital facilities that may be necessary to serve that growth, unless it can adequately maintain its existing capital facilities. However, determining the appropriate level of maintenance for capital facilities falls within the local government's discretion. Cities and counties do not have to construct new or expand old capital facilities, or even improve their maintenance efforts. Instead, they can make the policy choice to reduce expectations by adopting lower levels of service. For example, a city might reduce the level of service from a 10-minute response time to a non-emergency police call to a 20 minute response time, rather than hire more police

officers and expand facilities.

As a matter of law, however, when "probable funding falls short of meeting existing needs" then the jurisdiction in question must reassess its land use element. RCW 36.70A.070(3)(e). Here, Seattle has indicated that it has historically had insufficient funding to properly maintain its existing capital facilities and that a maintenance deficit currently exists. The Plan provides:

Significant major maintenance needs for our existing facilities have been identified, and the City is exploring ways to remedy the existing backlog over time.... Exhibit 1, at 95 (emphasis added).

Further indications of the maintenance funding deficit are found in the CIP:

Major Maintenance Funding Program:

The City currently has a backlog of approximately \$300 million in major maintenance needs, the most critical of which amount to \$189 million over the next six years. In the context of development or later of the Comprehensive plan, policies are being developed to address funding priorities for existing major maintenance needs, and growth related requirements.

...

Growth Management Act Program:

Costs associated with accommodating growth in some areas may exceed standard practices. A bond issue may be required. Exhibit 1.32, at 18 (emphasis added).

The Engineering–Transportation portion of the CIP also states, under the heading "Projected Needs":

In 1989, the Seattle Engineering Department updated its Transportation Major Maintenance Plan. The plan includes an inventory of the city's transportation infrastructure and lists the condition of its facilities. The plan identified a total of \$200 million in currently known deficiencies in the transportation system for which adequate funding is not currently available. This backlog developed because existing resources have been insufficient to meet the annual maintenance service level requirements.... Since the 1989 study, some projects have been completed; however, inflation and new major maintenance needs have increased the backlog. Exhibit 1.32, at 140 (emphasis added).

When a jurisdiction determines that its probable funding falls short of meeting existing capital facilities needs, including maintenance of existing infrastructure, the jurisdiction has a duty to reassess its land use element. A jurisdiction in such a predicament does not have to prohibit further growth from occurring (through a development moratorium, for instance) until all maintenance funding backlog is eliminated. The Act does not require such draconian measures. Therefore the Board holds that, although Seattle is not required to halt all future growth, the GMA does require that a city like Seattle that concentrates such a large portion of its anticipated future growth into such a small area, closely examine the capability of the localized area's infrastructure to accommodate the growth.

The Plan or documents incorporated by reference in it, indicates no such examination for urban centers and urban villages within them. The City has not done an inventory of existing capital facilities located within urban centers and urban center villages (RCW 36.70A.070(3)(a)), nor a forecast of any future needs of these capital facilities. RCW 36.70A.070(3)(b). Once this localized inventory and forecast has been conducted, the City will be able to determine whether expanded or new capital facilities are necessary for the urban centers and villages within them. RCW 36.70A.070(3)(c). If expansion of existing or construction of new capital facilities is necessary, the City will have to prepare at least a six-year financing plan. RCW 36.70A.070(3)(d).

If and when the City elects to make final designations and to establish precise boundaries for all categories of urban villages, it will have to reassess whether its funding for existing capital facilities needs is sufficient. The City cannot fully implement its urban villages strategy until it ensures that the land use element and capital facilities plan element, including the financing plan, are coordinated and consistent. RCW 36.70A.070(3)(e).

Having responded to the heart of WSDF's complaint, the Board now turns to other arguments raised by the parties. Although the Act's planning goals are not specifically mentioned in Legal Issue No. 2, the Board will briefly address them since their exclusive purpose is to guide the development of comprehensive plans and development regulations (RCW 36.70A.020) and the City's Plan is at issue here. The Board has previously held that cities and counties must comply with the Act's planning goals, found at RCW 36.70A.020, both procedurally and substantively. *See Rural Residents*, at 23-28. Procedural compliance however, involves the local government merely "considering" the goals. Since consideration is a mental process, procedural compliance can be readily achieved and need not be shown in writing. *See Rural Residents*, at 25.

On the other hand, substantive compliance with the GMA's planning goals may not be so easily reached. In order to substantively comply with the planning goals, local jurisdictions must be guided by the specific goal in question, and a jurisdiction must first determine how directive the particular goal in question is drafted. For example, the housing goal, although important, is not highly directive since it uses the verbs "encourage" and "promote." Arguably, a jurisdiction can "encourage the availability of affordable housing" in many ways. However, a petitioner cannot challenge a city for not complying with the housing goal for lack of the existence of any city- or county-owned affordable housing, because the goal does not direct local governments to "purchase" affordable housing.

However, the public facilities and services goal is directive. RCW 36.70A020(12) provides:

Public facilities and services. Ensure that those public facilities and services^[41] necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards. (emphasis added).

This goal requires that cities and towns "ensure" adequate facilities. The verb "ensure" is far more directive than "encourage." Therefore, substantive compliance with subsection (12) may be more difficult to achieve than with subsection (4). However, a key part of the public facilities and services goal is

temporal, since adequate public facilities and services must not be provided until "...the time development is available for occupancy and use..." RCW 36.70A.020(12).

Second, and just as important, the local jurisdiction must determine how specific and directive any other sections of the Act are on the issue raised by the planning goal.

Although RCW 36.70A.020(12) is a directive planning goal, it nonetheless remains a "goal." The way to achieve that goal is specified in RCW 36.70A.070(3), the capital facilities plan element requirements of a comprehensive plan. Accordingly, the Board has focused its attention on whether the City complied with the requirements of that section.

Finally, the Board rejects WSDF's contention that Seattle must have a capital facilities plan for the 20-year life of the Plan. RCW 36.70A.070(3)(d) requires "at least a six-year plan." Although OFM's population projections and those used in countywide planning policies tend to have a 20-year time frame, the Act at a minimum requires only a six year plan. Seattle has met this requirement by incorporating by reference its CIP. The Board has always authorized the incorporation by reference technique.^[42] Notwithstanding the fact that the Act requires only a six year plan, all jurisdictions are strongly encouraged to plan far beyond six years.

CONCLUSION NO. 2

The Board concludes that, in violation of the requirements of RCW 36.70A.070, the City has not conducted sufficient analysis regarding the effects on existing capital facilities of distributing a large portion of anticipated growth into Seattle's urban centers and villages. Unlike a generalized land-use policy, Seattle's Plan contains a substantial localized focus on a relatively small portion of the city. The Plan distributes 45 percent of projected population and 65 percent of projected employment growth into urban centers, which comprise only six percent of the city's total acreage. This has significant implications on the amount of analysis required for the capital facilities element of the Plan. The Plan does not contain the required analysis.

Therefore, the Capital Facilities Plan Element of the Plan will be remanded with instructions for the City to bring it into compliance with the Act. The analysis must include an inventory of existing capital facilities within the adopted urban centers and villages within them. RCW 36.70A.070(3)(a). For purposes of conducting the inventory, "capital facilities" are those "public facilities" defined in RCW 36.70A.030(13), except for the facilities that are addressed by the transportation element of a comprehensive plan at RCW 36.70A.070(6).

In addition, the City must determine whether existing capital facilities located in urban centers and villages within them are adequate to meet the future needs of the projected population and employment growth for these areas. RCW 36.70A.070(3)(b). For purposes of conducting a capital facilities needs analysis, "needs" include not only the expansion of existing facilities and/or construction of new facilities, but the maintenance requirements of existing capital facilities.

In the event expanded or new capital facilities will be necessary to meet the demands of the projected growth distributed to urban centers and villages within them, the City must also indicate the proposed location and capacities of these facilities. RCW 36.70A.070(3)(c). The Plan must also contain at least a six-year financial plan that indicates the sources of public money needed to construct new or expand existing capital facilities to serve urban centers and villages. RCW 36.70A.070(3)(d).

When the City conducts the required capital facilities analysis for urban centers and villages within them, it must reassess the land-use element of the Plan if probable funding falls short. RCW 36.70A.070(3)(e). In that case, the City has much discretion in determining what to do. For instance, it could amend Land Use Element Goal G31 to alter the percentage of population and employment distribution; it could modify the categories of urban villages; or it could change the designation criteria for urban centers and villages—all assuming, of course, that the resulting action is internally consistent, complies with the requirements of the Act, and is consistent with the KCCPPs.

Finally, when all required analysis for capital facilities has been conducted and shown, either directly in the Plan or incorporated by reference to it, the future land use map must be consistent with the land-use element and the analysis that supports it. First paragraph of RCW 36.70A.070.

H. LEGAL ISSUE NO. 6

Does the Plan impermissibly have capacity for more population than is allocated to the City by the King County Countywide Planning Policies in violation of RCW 36.70A.210 and also .070 and .110?

Appendix 2 to the KCCPPs is a table entitled "Household and Employment Ranges." It is dated May 14, 1994 and lists the "Proposed Growth Targets for Households and Employment." Exhibit 8.2. The following information is provided for Seattle:

Net New Households	53,877
Net New Household Ranges	
Low	48,233
High	59,520
Net New Employment	132,700
Net New Employment Ranges	
Low	118,800
High	146,600

The Plan's Land Use Element Goal G31 (Exhibit 1, at 27) provides as follows:

Distribute the additional 50,000–60,000 households (52,500–63,000 dwelling units) and 131,400–146,600 jobs called for in this plan among the various areas of the city as follows:

Land Use Figure 7, which is included in Goal G31, has previously been set forth in full. It is the Figure that establishes the percentage of population and employment growth to different designations.

Land Use Element Policy L56 states:

Plan for the higher end of the citywide households and employment growth target ranges, and consider growth at least equal to the lower end to be within plan expectations. Exhibit 1, at 29.

Land Use Element Policy L59 provides:

Establish planning estimates of growth for each urban village, and areas outside of villages as shown in Land Use Appendix B, which shall constitute preliminary estimates of how growth might be distributed throughout the city, to further the objectives of the urban village strategy. These planning estimates shall be starting points from which neighborhood plans for growth in each urban village shall be developed. Exhibit 1, at 29.

In turn, Land Use Appendix B (Exhibit 1A, at A6-A9), is entitled "Growth Planning Estimates for Urban Center Villages, Hub Urban Villages and Residential Urban Villages." For each urban village, Land Use Appendix B specifies the size in acres, the number of existing and additional number of planned households, the existing and planned density (households/acre), the number of existing and additional planned jobs, and the existing and estimated density (jobs/acre) for the year 2010. Footnote 4 to Land Use Appendix B indicates that the acreage is based upon the unadopted urban village boundaries shown in Land Use Appendix A.

POSITION OF THE PARTIES

WSDF

WSDF contends that the Plan allows for more population capacity than allocated to the City by the KCCPPs. WSDF points out that RCW 36.70A.070 requires a city's comprehensive plan to include population densities and estimates of future population growth but does not specify what those densities should be. However, the City's Plan must be consistent with the KCCPPs. Therefore, the City is required to limit its planned growth estimates to King County's population allocation for Seattle. WSDF argues that the KCCPPs set the total net new households for Seattle at 53,877. Therefore, the City must use that number rather than the 60,000 figure set forth in the Plan in Land Use Element Goal G31. WSDF also points out that Land Use Element Policy L56 calls for the City to plan for the higher end of citywide household ranges and that this is a "grab for additional growth." WSDF's Brief, at 64-65. By aiming for the number at the high end of the range, Seattle is exceeding the net new household target "by nearly 7,000" households.

A difference in nearly 7,000 households would make a great deal of difference, if many of them were focused in a few distinct urban villages (say, those located in West Seattle), especially when compared to the total number of new households allocated to those villages. See Plan Land Use Appendix B, at A-7 (1,100 new households projected for West Seattle Junction urban village). WSDF's Reply, at 50.

Seattle

The City points out that the KCCPPs' range for new households is between 48,233 and 59,520 while the Plan's range is between 50,000 and 60,000 new households. The City contends that:

The numeric difference between the ranges (1,767 households at the low end and 480 households at the high end, over 20 years) has no measurable or practical significance..."

...

... Thus the average annual growth rate needed for the City to gain 53,800 households over 20 years is approximately 1.03%, compared to 1.14% for an increase of 60,000. WSDF has not shown that this difference would have any effect upon the Plan. In short, WSDF has failed to prove that the City's conformity with King County's population projections for Seattle violates the GMA. City's Brief, at 87-88.

BOARD DISCUSSION

RCW 36.70A.210

Although Legal Issue No. 6 lists RCW 36.70A.210 as having been violated, WSDF fails to make any assertions as to which provision in that section of the Act has been violated. Therefore, that portion of Legal Issue No. 6 dealing with RCW 36.70A.210 is abandoned and the Board will not consider it further.

RCW 36.70A.110

Use of twenty-year population projections by counties

RCW 36.70A.110(1) requires counties to designate urban growth areas (**UGAs**) within which urban growth shall be encouraged and outside of which growth can only occur if it is not urban in nature. Each city must be included within a UGA. Therefore, Seattle is an urban growth area. In designating UGAs, counties are to base the population component of the designation process upon the planning population projections made by the OFM. RCW 36.70A.110(2). In addition, counties must look to other factors besides projected population in determining the physical size of a UGA. For instance, the amount of critical areas, open space areas and greenbelts all play a role in designating UGAs as does the amount of projected population growth. *See Rural Residents*, at 35; *Tacoma et al. v. Pierce County*, CPSGMHB Case No. 94-3-0001 (1994), at 25. However, as the Board first held in *Rural Residents*, counties must use exclusively OFM's projections for the population component of the UGA designation exercise.

In *Edmonds and Lynnwood v. Snohomish County*, CPSGPHB Case No. 93-3-0005 (1993), the Board further examined the use of OFM's projections through a process of sub-allocating or disaggregating the county-wide number. Snohomish County's CPPs authorized the county to allocate population and employment to the cities within the county. The Board held that the Act, although not requiring it, permitted such an allocation process. *Edmonds*, at 28. Therefore, counties have the authority to sub-allocate, through their CPPs, population and employment within the county, including to cities. *Kitsap County v. OFM*, CPSGMHB Case No. 94-3-0014 (1995), at 6.

Use of the population projection allocation to cities

In this Board's first comprehensive plan case, *Aagaard et al. v. Bothell*, CPSGMHB Case No. 94-3-0011 (1995), the question of population allocations again arose. The petitioners in that case claimed, similarly to WSDP here, that the city was planning for more population than had been allocated to it by the KCCPPs. There the Board first noted the distinction between a county being required to use only OFM's population projections for designating UGAs and a city, once the UGAs had been drawn, being able to plan for whatever population it concluded it could accommodate, subject to the capital facilities plan and concurrency restraints of the Act. The Board was unable to conclude that Bothell had violated the Act by planning for a population capacity greater than allocated to it by the counties. Instead, the Board concluded that:

Unlike the requirement that counties must use exclusively the OFM twenty-year population projection in sizing UGAs, there is no parallel language in the Act telling a city how much population it must or may accommodate once its boundaries are established. *Aagaard*, at 14.

The Board noted, however, that:

... it is conceivable that legitimate regional reasons could justify limiting the population or employment capacity of a city comprehensive plan to a specific number. *Aagaard*, at 15.

In the case involving Kitsap County's petition for an adjustment of OFM's projection, the Board noted that:

...Absent a legitimate regional reason specified in an adopted CPP to the contrary, a city may adopt a comprehensive plan that has a population capacity in excess of the allocation provided by the county. *Kitsap County v. OFM*, at 6.

Therefore, the Board holds that, unless a specific policy in the CPPs prohibits a city from planning for a greater population capacity than the allocation granted it by the county, the city may plan for more than the allocation. This conclusion is based on the Act's requirement that "cities are [the] primary providers of urban governmental services within an urban growth area" (RCW 36.70A.210(1)) and the fact that OFM's population projections are to be used for designating UGAs (RCW 36.70A.110(2)), not necessarily for planning once the boundaries of UGAs have been established.

Moreover, this holding is consistent with the Act's first two planning goals at RCW 36.70A.020:

- (1) Urban growth. Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.
- (2) Reduce sprawl. Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development.

In short, allowing a city to plan for even more growth than has been allocated to it by the county bolsters the Act's first two planning goals by encouraging that city to accept in its comprehensive plan as much

growth as it determines it can adequately accommodate, subject to the Act's other constraints.

This holding is an extension of an earlier ruling by the Board that:

Each city retains the local prerogative of determining just how the regional policy allocation of population and employment is going to be accommodated and configured through local development regulations and other exercises of the land use power of cities. *Edmonds*, at 29.

Requirements of the KCCPPs

Turning then to the KCCPPs, the Board notes that, technically, Seattle has exceeded the population capacity allocated to it by King County. The high end of the net new household range for Seattle is 59,520 households. Exhibit 8.2. Seattle has planned for 60,000 additional households. Exhibit 1, Land Use Element Goal G31, at 27. The City has planned for 480 more households than listed in the KCCPPs.

The Board holds that Seattle has not violated the GMA by planning for more population than allocated to it by King County. First, nothing in the record indicates that the KCCPPs specifically mandate that cities plan for no more than the population allocated to them. Second, the Board notes that the City's use of 60,000 households is indeed simply a rounding off to the nearest thousand of King County's allocation of 59,520. Unless the CPPs strictly prohibit such a rounding off, cities have the discretion to round off county-imposed population and employment projections. Furthermore, the difference here, 480 households or 1 percent of either 59,520 or 60,000, is statistically insignificant particularly given the Board's admonition about the nature of population projections:

Because economic, social and technological trends shift over time, it is virtually impossible to project a county's population twenty years into the future with a high degree of precision and accuracy. Thus, while the OFM population projection for a given county must be stated as a finite population at a fixed point in time and based upon the best data, assumptions and analytical methods available, it is not possible to guarantee that such an outcome will be achieved. *Kitsap County v. OFM*, at 7.

Accordingly, if OFM's population projections cannot be viewed as being totally accurate, neither can the county's aggregation of those numbers over a 20-year period. Furthermore, unlike OFM's projections, which are "numeric, objective, technical and finite" and "value neutral, being neither policy nor political in nature" (*Kitsap County v. OFM*, at 7), a county's disaggregation of OFM's projections may be less objective and value neutral. In summary, a city does have the discretion to have population capacity in its plan greater than the county's allocation for that city, subject to the Act's capital facilities and concurrency constraints, and absent a policy in the CPPs that specifically prohibits it.

RCW 36.70A.070

RCW 36.70A.070(1), the land use element provision, requires a comprehensive plan to contain "population densities" and "estimates of future population growth." Land Use Element Policy L59 refers to Land Use Appendix B, which in turn contains densities for the urban centers and for all urban villages

including those with unadopted boundaries. In addition, Land Use Element B contains population estimates for areas outside of urban centers and villages. Existing densities and projected future densities for those areas are not listed. Exhibit 1A, at A9. However, densities as of 1990 are listed in Land Use Figure A-6. Exhibit 1A, at A17. Land Use Element Goal 31 and accompanying Land Use Figure 7 contain the estimates of future population growth for the entire City, although the numbers are subdivided into categories inside and outside of urban centers and urban villages. Therefore, the Board holds that the Plan does contain population densities and estimates of future population growth.

CONCLUSION NO. 6

Seattle's Plan does contain slightly more capacity for population that is allocated to it by the King County Countywide Planning Policies. However, nothing in the record indicates that the KCCPPs mandate that the upper allocation range cannot be exceeded. Furthermore, the City's rounding off of its allocation to the nearest thousand is not significant given the nature of population projections themselves. Accordingly, the City has not violated RCW 36.70A.070, .110 or .210 by planning for additional population capacity than allocated by the KCCPPs.

I. LEGAL ISSUE NO. 7

7. Do the transportation level of service standards prescribed by the Plan (e.g., pp. 63-65) violate RCW 36.70A.070?

POSITION OF THE PARTIES

WSDF

WSDF contends that the City's level of service (LOS) standard, its "screenlines," do not comply with RCW 36.70A.070(b)(ii) because they do not set arterial LOS at any functional level. WSDF's Brief, at 27. WSDF criticizes the City for utilizing its own LOS standard which, it contends "is no standard at all; it is essentially gridlock." WSDF's Brief, at 27. According to WSDF, the purpose of the City's screenline LOS is:

... to allow the City to approve any development permits, regardless of whether the development would cause traffic congestion, and avoid forcing the City to upgrade the numerous City arterials and transit routes that would be in violation under a true LOS standard. WSDF's Brief, at 27.

WSDF alleges that any standard that allows gridlock does not measure "service" since "gridlock" is not a "service":

While a local jurisdiction may have some leeway to choose an LOS that tolerates more or less congestion, it does not have discretion to fail effectively to maintain a level that provides some practical service. (emphasis in original). WSDF's Brief, at 25.

Furthermore, WSDF argues that RCW 36.70A.070(6)'s requirement for the LOS standard to measure

"performance" cannot be met by the City since what the City did is "the antithesis of a gauge of performance." City's Reply, at 33.

WSDf disputes the City's interpretation of the *Highway Capacity Manual* and quotes provisions from that document that indicate that traffic facilities generally operate poorly at or near capacity, and are rarely designed or planned to operate in this range. WSDf's Reply, at 35. Accordingly, WSDf maintains that any volume/capacity (v/c) ratio over 1.0 must be construed as resulting in gridlock by definition. Even though the City Council reduced the v/c ratio from what the Mayor had proposed, WSDf contends that nonetheless, the City's adopted standards permit operations at over 20 percent above capacity. WSDf's Brief, at 36.

Citing to RCW 36.70A.020(1) and .070(6)(e), WSDf also argues that using the screenline approach, which groups together several parallel arterials into one averaged screenline, is:

... exactly counter to the central purpose of the GMA's concurrency requirement: to allow growth only in areas where there are (or definitely will be) adequate transportation facilities to serve it. WSDf's Brief, at 31.

Finally, WSDf responds that, although drivers in other areas of the city may have other route selection alternatives, those in West Seattle are basically stuck with only one option: the West Seattle Bridge. WSDf's Reply, at 37.

Seattle

Initially, the City responds by examining the Act's findings at RCW 36.70A.010, the goals of the Act at RCW 36.70A.020(1) and (2), the Act's urban growth area requirements at RCW 36.70A.110, and the Board's *Rural Residents* decision, to conclude that:

... The goal of the GMA is not to stop growth, but to coordinate and plan for—in short, to manage—the growth. City's Brief, at 69.

Seattle cites to WAC 365-195-510(2)(b) for the proposition that in establishing LOS standards, jurisdictions must be careful not to set levels too high because that could result in no growth. In addition, the City refers to WAC 365-195-325(2)(g) and WAC 365-195-210 that suggest that transportation "strategies aimed at changing travel behavior rather than at expanding the transportation network to meet travel demand" should be pursued. This latter pursuit, Seattle argues, is consistent with the State of Washington's policy of discouraging the construction of new roads and bridges as the answer to traffic congestion. RCW 70.94.521 - .551. City's Brief, at 69-70.

The City argues that the GMA does not prescribe an LOS methodology nor set LOS standards. Instead, those decisions are left to local governments. Again citing the procedural criteria, Seattle contends that WAC 365-195-325(2)(e) indicates that a jurisdiction is not limited to using the traditional method for measuring LOS, as set forth in the *Highway Capacity Manual*. City's Brief, at 70.

Accordingly, Seattle maintains that:

...local elected officials make the policy choice as to the level of congestion allowed under these locally-established LOS standards, provided that the facilities and services are considered adequate. City's Brief, at 71-72.

The City also contends that the GMA does not require that LOS standards be established that allow "free-flow" traffic or allow traffic to move continuously at the legal speed limit. Indeed, the City argues that "...such conditions may be difficult or impossible to achieve in the compact urban environments envisioned by the GMA." City's Brief, at 72.

Seattle explains its choice of LOS standards as a step "...back from micro-level focus of traditional intersection LOS analysis,...that] recognized explicitly the broader geographic impacts of development and travel patterns. The system recognizes that no single intersection or arterial operates in isolation":

If traffic congestion on one arterial increases, it may not make sense to expand the capacity of that arterial. The City, instead, may want to shift traffic to a nearby under-used arterial, or to expand capacity on a different nearby arterial, or to implement measures to reduce travel demand—or a combination of these strategies. City's Brief, at 72-73.

The City acknowledges that its LOS methodology involves averaging over a geographic area but notes that this is authorized by WAC 365-195-325(2)(e) and that other nearby jurisdictions have designed their LOS methodologies using averaging. City's Brief, at 75. Therefore, the City contends that the averaging approach is a "logical means" of gauging the performance of the transportation system. Furthermore, it points out that micro-level analysis urged by WSDF is more appropriate in detailed neighborhood plans or for project-level review of specific development applications. City's Brief, at 76.

The City also alleges that even a street system where some arterials exceed the estimated capacity (which the City contends is only a theoretical rather than absolute number) during high volume hours of the day, does provide a service. Traffic will be moving, albeit too slowly or at too congested a comfort level for some motorists. Nonetheless, the City Council made the policy choice to establish the LOS standards that allow traffic congestion during the highest-volume peak traffic hour. The City contends that the Act emphasizes that the choice is its own. The City Council:

...concluded that these LOS standards provide "adequate" service when the system, i.e., the traffic sheds and screenlines, is viewed as a whole. Nothing in the GMA prohibits that choice and ... that choice helps promote other GMA and state policies. The fact that single occupant vehicle traffic may be slow on a particular street segment for a limited time simply does not mean the transportation system is inadequate to accommodate growth. City's Brief, at 77.

The City also contends that its Plan does not allow gridlock. Citing a definition of "gridlock" meaning that "no vehicular movement is possible," Seattle maintains that:

...where the v/c ratio is at 1.0 or above, many vehicles are moving on the street—as many or more

than the estimated capacity. This is a far cry from "no vehicular movement" inherent in gridlock. City's Brief, at 78.

BOARD DISCUSSION

RCW 36.70A.070(6) requires that a comprehensive plan contain "a transportation element that implements, and is consistent with, the land use element." In addition, the transportation element must be consistent with "the six-year plans required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems...." The transportation element must include numerous subelements. RCW 36.70A.0706(b)(ii) addresses the requirements for level of service standards:

(b) Facilities and services needs, including:

... (ii) Level of service standards for all arterials and transit routes to serve as a gauge to judge performance of the system. These standards should be regionally coordinated;

(iii) Specific actions and requirements for bringing into compliance any facilities or services that are below an established level of service standard;

(iv) Forecasts of traffic for at least 10 years based on the adopted land use plan to provide information on the location, timing, and capacity needs of future growth;

(v) Identification of system expansion needs and transportation system management needs to meet current and future demands; (emphasis added).

The Board finds Seattle's arguments most persuasive and holds that Seattle has adopted a level of service methodology and level of service standards for all arterials and transit routes. Furthermore, this LOS methodology does serve as a gauge to allow the City to objectively measure the performance, or lack thereof, of its transportation system. The Board sympathizes with WSDF's concerns that traffic congestion in Seattle may worsen if today's driving habits continue, coupled with the arrival of tomorrow's projected growth. However, that is a policy matter to be resolved by the elected officials and the electorate of Seattle and the Puget Sound region.

The Act requires a gauge of performance—it does not, as WSDF implies, require that every driver can proceed at (or above) the posted speed limit at all times. An analogy is helpful. Seattle's LOS methodology is like an outdoor thermometer. Just as a thermometer is a calibrated instrument to objectively measure ambient air temperature, so does the LOS methodology measure the volume of vehicular traffic in relation to the capacity of the City's arterials. The fact that a thermometer can tell someone that its either too hot or cold outside for their comfort, is analogous to Seattle's LOS methodology informing one how congested a street is.

In essence, WSDF argues that when the thermometer indicates it's 110° F outside, that is too hot. Likewise, WSDF argues that if the v/c ratio is over 1.0, that's too congested. However, establishing LOS methodology for arterials and transit routes, like calibrating a thermometer, is simply an objective way to measure traffic. That is all the Act requires establishing; it does not dictate what is too congested. Under the GMA, setting the desired level of service standard is a policy decision left to the discretion of local elected officials. Citizen dissatisfaction with the City's LOS methodology or its LOS standards may be

expressed through the City's legislative process and the ballot box, not through the quasi-judicial system.

CONCLUSION NO. 7

Seattle has established LOS methodology and standards that measure the level of service for the arterials and transit routes in its transportation system. These gauge the performance of Seattle's transportation system and therefore comply with RCW 36.70A.070(6)(b)(ii).

K. LEGAL ISSUE NO. 8

Does the transportation element of the Plan (e.g., at p. 55 et seq.) comply with the requirements of RCW 36.70A.070(6)(b)?

BOARD DISCUSSION

[WSDOT included its arguments regarding subsections (6)(b) and (c) in this legal issue, even though subsection (6)(c) is listed in Legal Issue No. 9. The Board has elected to address subsection (6)(c) here since it is closely related to subsection (b). Consequently, Legal Issue No. 9 deals only with compliance with RCW 36.70A.070(6)(d).]

RCW 36.70A.070(6)(b) and (c) provide that the transportation element of a comprehensive plan must address:

(b) Facilities and services needs, including:

- (i) An inventory of air, water, and land transportation facilities and services, including transit alignments, to define existing capital facilities and travel levels as a basis for future planning;
- (ii) Level of service standards for all arterials and transit routes to serve as a gauge to judge performance of the system. These standards should be regionally coordinated;
- (iii) Specific actions and requirements for bringing into compliance any facilities or services that are below an established level of service standard;
- (iv) Forecasts of traffic for at least ten years based on the adopted land use plan to provide information on the location, timing, and capacity needs of future growth;
- (v) Identification of system expansion needs and transportation system management needs to meet current and future demands;

(c) Finance, including:

- (i) An analysis of funding capability to judge needs against probable funding resources;
- (ii) A multiyear financing plan based on the needs identified in the comprehensive plan, the appropriate parts of which shall serve as the basis for the six-year street, road, or transit program required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems;
- (iii) If probable funding falls short of meeting identified needs, a discussion of how additional funding will be raised, or how land use assumptions will be reassessed to ensure that level of service standards will be met; (emphasis added)

Several similarities exist between the requirements for a capital facilities plan element and the transportation element of a comprehensive plan. The former requires an inventory of existing facilities (RCW 36.70A.070(3)(a)) while the latter requires an inventory of air, water and land transportation facilities. RCW 36.70A.070(6)(b)(i). A capital facilities plan element must contain a forecast of future needs (RCW 36.70A.070(3)(b)) and the transportation element must include traffic forecasts for at least 10 years. RCW 36.70A.070(6)(b)(iv). The capital facilities plan element includes at least a six-year finance plan (RCW 36.70A.070(3)(d)) while the transportation element must include a multiyear financing plan. RCW 36.70A.070(6)(c)(ii). Finally, if probable funding falls short for capital facilities, the jurisdiction must reassess the land use element (RCW 36.70A.070(3)(e)) and if probable funding falls short of transportation needs, the jurisdiction has the option of reassessing its land use assumptions. RCW 36.70A.070(6)(c)(iii).

As with the capital facilities plan element of the Plan, WSDF's major contention is that the City failed to conduct the appropriate analysis of future transportation needs and funding abilities to meet those needs for its urban villages. The Board holds that since the hub and residential urban villages have not yet been adopted, such analysis is not necessary at this time and will not be unless and until those categories of urban villages are adopted.

However, since the City did adopt urban centers and urban center villages, the question is whether the City conducted the appropriate analysis, given the fact that so much of projected future population and employment will be distributed to those areas.

The City's inventory of existing transportation facilities and services is found in the Transportation Appendix A which includes Transportation Figures A-1 through A-11. Exhibit 1A, at A30-A44. Although urban centers and urban villages are not distinguished from the remainder of the City, one can ascertain with a reasonable amount of certainty what facilities are located within them especially if one transposes Transportation Figure 1, Figure 2, Figure 4 and Figure 6 (Exhibit 1, at 61, 64, 69 and 75 respectively) from the Plan onto them since they do show urban centers. The information provided in Appendix A, coupled with the capital facilities plan element, is to serve "as a basis for future planning." RCW 36.70A.070(6)(b)(i). Then Seattle is to set its LOS standards which it does in Part E of the transportation element of the Plan. *See* Legal Issue No. 7. These standards are site specific. *See* Transportation Figures 2 and 3, Exhibit 1, at 64-65.

Subsection (b)(iii) requires the City to include specific actions and requirements to bring into compliance any facilities or services that are below an established level of service. The City meets this requirement with Transportation Element Policy T23 which provides:

When the calculated LOS for a screenline approaches the LOS standard for that screenline, pursue strategies to reduce vehicular travel demand across the screenline and/or increase the operating capacity across the screenline. Exhibit 1, at 63.

The City's traffic forecasts are contained in Transportation Appendix C. Exhibit 1A, at A47. RCW 36.70A.070(6)(b)(iv) requires that they be for at least 10 years. Seattle's are for the year 2010 and therefore comply with that requirement. RCW 36.70A.070(6)(b)(iv) also requires that the forecasts be

"based on the adopted land use plan to provide information on the location, timing, and capacity of future growth." Emphasis added. According to Transportation Appendix C, the City's traffic forecasts for the year 2010 are based on the Mayor's recommended plan and the "no action" alternative as more fully described in the draft and final environmental impact statements for the Plan.

As previously indicated, the Mayor's recommended plan included not only urban centers and the villages within them but also hub and residential urban villages. The Plan contains only adopted urban centers and urban center villages. Therefore, the City has not complied with the requirement in RCW 36.70A.070(6)(b)(iv) that its traffic forecasts be based on the adopted Plan, as opposed to the Mayor's recommended one. Accordingly, the City will have to make such forecasts. Again, this can be done by incorporating by reference existing data and analysis.

Furthermore, the Board notes that the existing traffic forecasts are citywide. RCW 36.70A.070(6)(b)(iv) requires that the traffic forecasts provide information on the location of future growth. The Plan focuses heavily on reducing dependence upon single-occupant vehicles and placing more reliance on public transportation. *See* below. Because of the high concentration of population and employment growth being distributed into urban centers and villages, the City must at least discuss what impact its urban villages strategy will have on future traffic forecasts. The Plan's traffic forecast analysis and the transportation financing analysis required by RCW 36.70A.070(6)(c) also must be coordinated and must specifically address the impacts of the Plan's transportation policies, coupled with the urban villages strategy as currently adopted, on public and private transportation.

The transportation element shall contain an analysis of funding capability to judge needs against probable funding resources, and a multiyear financing plan based on the needs identified in the comprehensive plan. RCW 36.70A.070(6)(c)(i) and (ii). Transportation Appendix A indicates that:

...traffic volume entering and exiting the city daily... has increased from 758,000 in 1980 to 1,004,000 in 1990—a 32 % increase over ten years. During the same period, Seattle's population increased by 4.5 % and employment increased by 26 %.

...In addition, the number of registered vehicles in Seattle has increased from 474,535 in 1980 to 536,335 in 1990, representing a 13 % increase. Vehicle ownership has increased from 0.7 per resident in 1968, to 0.96 per resident in 1980, and to 1.04 per resident in 1990, representing an eight percent increase from 1980 to 1990. Exhibit 1A, at A30.

The overwhelming impression one gets from reading the Transportation Element is that the City is attempting to place less reliance on the private automobile as the primary mode of transportation. ^[43]

The City's transportation financing plan is contained in Part J of the Transportation Element. Exhibit 1, at 76-79. Transportation Figure 7 is the "Estimated Future Transportation Revenue" while Transportation Figure 8 is the "Estimated Future Transportation Expenditures" for the years 1995-2000.

Transportation Figure 7 shows between \$286 and \$349 million dollars of total revenue expected including "Preliminary estimates for new revenues." If one subtracts the estimates for new revenues, the total range

is between \$275 and \$324 million. In contrast, the listed total expenditures for the same period is between \$314 and \$405 million.^[44] If one subtracts the LINC project, because it is a new project, expenses are reduced to between \$308 and \$390 million. This information can be broken down as follows:

Estimated Future Revenue

Maximum Range = \$286 - \$349 million

Minimum Range = \$275 - \$324 million

Estimated Future Expenditures

Maximum Range = \$314 - \$405 million

Minimum Range = \$308 - \$390 million

Difference

Maximum Revenue Range = \$286 - \$349 million

Minimum Expenditure Range \$275 - \$324 million

\$ 9 - \$ 25 million surplus

Difference

Maximum Revenue = \$349 million

Minimum Expenditure = \$275 million

\$ 74 million surplus

Difference

Minimum Revenue = \$275 million

Maximum Expenditure = \$405 million

\$130 million deficit

The bottom line, depending upon which set of permutations one uses, is that Seattle will have between a \$130 million deficit and a \$74 million surplus in estimated transportation system costs in the next six years. If probable funding falls short of meeting identified needs, a discussion of how additional funding will be raised, or how land use assumptions will be reassessed must be included in the Plan. The City responded to this requirement with the following "Analysis":

Based on the revenue and expenditure estimates shown in Transportation Figures 7 and 8, the City expects to have sufficient resources to fund the expenditure needs shown.

If probable funding falls short, then the Planning Department and the Engineering Department will be directed to:

Identify and evaluate possible additional funding resources; and/or

Identify and evaluate alternative land use and transportation scenarios, including assumptions about levels and distribution of population and employment, densities, types and mixes of land use, and transportation facilities and services, and assess their effects on transportation funding needs.

The City may then revise the Comprehensive Plan as warranted to ensure that level-of-service standards will be met. Exhibit 1, at 79.

Having reviewed these documents and this analysis, the Board concludes that the City has complied with RCW 36.70A.070(6)(b) and (c), unless otherwise noted.

CONCLUSION NO. 8

The Transportation Element of Seattle's Plan contains a traffic forecast for the year 2010 based upon the Mayor's recommended comprehensive plan. Since the Mayor's plan was different from the adopted Plan, the City has not complied with RCW 36.70A.070(6)(b)(iv). The traffic forecast must be based upon the adopted comprehensive plan. In addition, the traffic forecast does not contain any analysis of what impact the Transportation Element policies to reduce dependence on single-occupant vehicles and the adopted urban villages strategy will have on traffic, especially in the adopted urban centers and urban villages within them. Finally, once the appropriate analysis and forecast has been prepared based upon the adopted Plan, the Plan's transportation financing component must be updated and coordinated.

L. LEGAL ISSUE NO. 9

Does the transportation element of the Plan (e.g., at p. 55 et seq.) comply with the requirements of RCW 36.70A.070(6)(c) and (d)?

POSITION OF THE PARTIES

WSDF

WSDF discussed only the City's alleged lack of compliance with RCW 36.70A.070(6)(d) in its discussion of Legal Issue No. 9. Petitioner's arguments regarding subsection (c) are included in Legal Issue No. 8. WSDF contends that the Plan fails to adequately discuss intergovernmental coordination efforts or assess the impacts of the Plan's transportation and land use assumptions on adjacent jurisdictions.

WSDF claims that the Plan's effort to comply with RCW 36.70A.070(6)(d) is "buried" at the end of the transportation appendix. That discussion merely speculates that the Plan may reduce impacts on neighboring jurisdictions because the city is capable of accommodating additional regional growth with its existing road network. WSDF maintains that the Plan should have discussed whether its assumption about using extreme congestion to change travel behavior would drive more, rather than less, growth away from the city into outlying areas. WSDF's Brief, at 38.

Seattle

The City contends that the Appendix D [Exhibit 1A, at A48-A49] of the transportation element of the Plan addresses the intergovernmental coordination requirement of RCW 36.70A.070(6)(d). Furthermore, various policies in the transportation element provide for continued intergovernmental coordination: Policies T3-T5, T24, T33-T38, T40 and T51.

In addition, Appendix C of the transportation element of the Plan refers to the draft and final EIS analysis conducted that "...show that the proposed Plan would likely result in lower traffic volumes and higher transit ridership in the City and the region as compared with the "no action" alternative." City's Brief, at 84. Seattle contends that more extensive analysis of the relation between the Plan and those of adjacent jurisdictions was hampered by the fact that the City adopted its Plan before adjacent jurisdictions adopted theirs.

The City also contends that it participated actively in the KCCPPs formulation process and that the KCCPPs themselves contain an assessment of interjurisdictional impacts. City's Brief, at 85.

Finally, Seattle contends that WSDF "mis-characterizes" the overall Plan by singling out one component, the LOS standards, to conclude that the Plan's assessment of impacts on adjacent jurisdictions does not comply with the Act.

... No single component of the Plan can be viewed in isolation, either for its effect on the City or for its effect on adjacent jurisdictions. Rather, the Plan must be taken as a whole, and its impacts assessed as a whole.... The fact that this section [of the Plan] does not analyze WSDF's particular theory that the LOS standards will result in sprawl does not mean that this part of the Plan violates the GMA. City's Brief, at 86-87.

BOARD DISCUSSION

RCW 36.70A.070(6)(d) provides:

(d) Intergovernmental coordination efforts, including an assessment of the impacts of the transportation plan and land use assumptions on the transportation systems of adjacent jurisdictions;

Transportation Appendix D, "Intergovernmental Coordination Efforts," constitutes the City's effort to comply with subsection (6)(d). It indicates that Seattle made several intergovernmental coordination efforts. The City is a member of the Puget Sound Regional Council (PSRC) which provides population, employment and transportation data to cities and allocates federal Intermodal Surface Transportation Efficiency Act funds. The City participates in King County's ad hoc Transportation Work Groups, that includes state agencies and cities and counties in the region. The City created an intergovernmental team that sponsored coordination activities with other City departments, state agencies, the PSRC and other cities and counties.

The Board holds that these efforts comply with the Act. The City has participated in numerous state, regional and local agencies and political subdivisions and the Plan indicates that these efforts will continue.

As for assessing the impacts of its transportation system on adjacent jurisdictions, Appendix D states:

The growth in population and employment that is forecasted for Seattle in the Comprehensive Plan

is higher than in the "no action" alternative. Accommodating more of the regional growth in Seattle, rather than outlying areas, may reduce impacts on neighboring jurisdictions. New development inside Seattle can take advantage of the existing road network and other services without major new expansions. Growth in urban centers and urban villages will help provide focal points for efficient transit service and pedestrian-oriented activities. Exhibit 1A, at A49 (emphasis added).

The Board holds that Seattle's assessment of its Plan's impact on adjacent jurisdictions does not comply with the Act. Although Appendix D contains a conclusory statement that the City's Plan "may reduce impacts on neighboring jurisdictions," absolutely no analysis or discussion of how this conclusion was reached is listed. At the very least, the Plan must indicate which jurisdictions are adjacent to the city, what the present traffic volumes and system capacities of major arterials in those jurisdiction connected to Seattle's are, and an analysis of what impact, if any, Seattle's transportation plan will have on those neighboring jurisdictions.

The fact that Seattle may have adopted its comprehensive plan before adjacent jurisdictions adopted theirs does not prevent the City from attempting to ascertain the impact of its Plan on others. This subsection of the Act requires cities and counties to assess the impact their plan has on others—not the impact others place on them. If adjacent jurisdictions indicate that they are not impacted by Seattle's Plan, the Plan must so indicate.

Nonetheless, despite the impact the Land Use and Transportation Elements of Seattle's Plan may or may not have on adjacent jurisdictions, the City is reminded of the requirement that its comprehensive plan be consistent with those of cities and counties which share common borders or related regional issues (RCW 36.70A.100), with the KCCPPs (RCW 36.70A.210(1)), and the multicounty planning policies (RCW 36.70A.210(7)).

The applicable information may already be available and required analysis already conducted. If so, that information and analysis can be incorporated by reference into the Plan. However, the required assessment does not currently exist in the Plan or its Appendices.

CONCLUSION NO. 9

Seattle has complied with the requirement of RCW 36.70A.070(6)(d) to participate in intergovernmental coordination efforts regarding transportation planning. However, the Board concludes that the Plan does not comply with the requirement of RCW 36.70A.070(6)(d) to include an assessment of the impacts of the transportation plan and land use assumptions on the transportation systems of adjacent jurisdictions.

M. LEGAL ISSUE NO. 11

Did the City provide for public participation as required by RCW 36.70A.020(11) and RCW 36.70A.140?

The Board has determined that a number of the GMA's planning goals set forth in RCW 36.70A.020 are

addressed in more detail in subsequent sections of the Act. Such is the case with RCW 36.70A.020(11) which provides:

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

The last phrase of this planning goal is addressed in a number of sections that deal with the coordination and consistency between communities and jurisdictions. See RCW 36.70A.100, .110 and .210. At issue in the present case is the first portion of the goal which states "encourage the involvement of citizens in the planning process." The specific provision of the Act which expands upon this portion of planning goal (11) is RCW 36.70A.140 which provides:

Each county and city that is required or chooses to plan under RCW 36.70A.040 shall establish procedures providing for early and continuous public participation in the development and amendment of comprehensive land use plans and development regulations implementing such plans. The procedures shall provide for broad dissemination of proposals and alternatives, opportunity for written comments, public meetings after effective notice, provision for open discussion, communication programs, information services, and consideration of and response to public comments. Errors in exact compliance with the established procedures shall not render the comprehensive land use plan or development regulations invalid if the spirit of the procedures is observed. (emphasis added).

The Board has addressed the requirements of RCW 36.70A.140 in a number of earlier cases. In its very first decision, *Tracy v. Mercer Island* CPSGPHB Case No. 92-3-0001 (1993), the Board held that this section of the Act establishes a requirement for "enhanced" public participation.

...the Board expects that the procedures for enhanced public participation required by RCW 36.70A.140 will be adopted by the legislative body of each jurisdiction planning under the GMA ...

...
These enhanced public participation procedures may include public involvement procedures or techniques required by other statutes or local ordinances. (emphasis added). *Tracy*, at 13, 14.

The relationship between the public and elected officials was also discussed in *Poulsbo, et al. v. Kitsap County*, CPSGPHB Case No. 92-3-0009 (1993), in which the Board held:

...the "public participation" that is one of the hallmarks of the GMA, does not equate to "citizens decide". The Act requires the elected legislative bodies of cities and counties, not individual citizens, to ultimately "decide" on the direction and content of policy documents such as county-wide planning policies and comprehensive plans. The Act assigns this policy making authority to city and county elected officials, who are accountable to their citizens at the ballot box. *Poulsbo*, at 36.

The Board expanded upon this theme in *Twin Falls et al. v. Snohomish County*, CPSGPHB Case No. 93-3-0003 (1993), in which the Board held:

The Board further holds that "consider public input" means "to think seriously about" or "to bear in mind" public input. Significantly, the Board holds that "consider public input" does not mean "agree with" or "obey" public input.

...Certainly, many of the choices that the Act places before elected officials are essentially value driven, and hearing the opinions of citizens is an important duty for elected officials. Nevertheless, the Act also obliges local elected officials to be responsive to many other duties and it therefore does not follow that a local legislative enactment will always comport with popular public opinion. *Twin Falls*, at 77-78.

...The Act's purposes are served when public participation is an interactive dialogue between local government and the public. Those purposes are not served by a soliloquy. *Twin Falls*, at 79.

The ability of local elected officials to meet their duty to hear and consider the opinions of the public depends in part upon how clearly that local government communicates with the public. In *Happy Valley et al. v. King County*, CPSGPHB Case No. 93-3-0008 (1993), the Board held:

Meaningful public participation depends upon local government being clear and consistent in the way it characterizes the authority, scope and purpose of proposed planning enactments. *Happy Valley*, at 19.

The above Board holdings regarding RCW 36.70A.140, when read together, establish that cities and counties are required to undertake "early and continuous" public participation in the development and amendment of comprehensive plans and development regulations, and that while the requirement to consider public comment does not require elected officials to agree with or obey such comment, local government does have a duty to be clear and consistent in informing the public about the authority, scope and purpose of proposed planning enactments.

In the present case, a number of allegations have been made by WSDF that the City violated RCW 36.70A.020(11) and .140. While the statute and the above quoted Board holdings provide a context for evaluation and decision, the Board notes that some of the allegations focus on the meaning of "early and continuous." Because no previous decision has yet addressed the meaning of "continuous" the Board will craft a test to then deal with some of the specific allegations made in this case.

The Record

The record indicates that the City's public participation process began soon after adoption of the GMA and continued through adoption of the Plan on July 25, 1994. Over this span, the process had three discrete phases: the first began with a focus on "core values" and vision that led to the adoption of "framework policies"; then various drafts of the Mayor's proposed comprehensive plan were circulated; and finally, Council-proposed drafts of the plan were prepared prior to final adoption. The record documents broad distribution of information and solicitation of public participation through a variety of printed and electronic media, several plan drafts and scores of open houses, meetings and hearings

conducted variously by the Mayor, the City Council, the Planning Commission, the Citizen Advisory Committee, city staff and city consultants.

The earliest public input, in early 1990, was solicited by the Seattle Planning Commission and the Office of Long-range Planning to identify "core values" from which a vision, expressed as a set of "framework policies" could be developed to guide the subsequent evolution of the plan. *See* Exhibit 1.20, at 496. In June and July of 1990, the Planning Commission held "scoping meetings" related to the framework policies leading to adoption by the Council in the fall of a revised scope. Public meetings were conducted by the Planning Commission in December of that year and a 32 member volunteer Framework Policies Advisory Committee met 18 times between September 1990 and November 1991. Exhibit 1.16, at i; and Exhibit 1.17, at 140-41.

In September of 1991, the *Draft Framework Policies* were presented by Mayor Rice, City Council President Street and Planning Commission Chair Lockard. Exhibit 1.16. This document was distributed through public libraries and neighborhood service centers, while another document, a summary of the Draft Framework Policies was circulated as an insert in community papers in October, 1991, with nearly 600 written replies from citizens. Six public meetings in various formats were held in locations in different parts of the city in the fall of 1991 for public review of the draft. From October, 1991 until March 1991, the Planning Commission members and city staff met with many community groups to solicit comment on the draft. Exhibit 1.17, at 142.

The Mayor's recommended framework policies were distributed in March 1992. Exhibits 1.1.7 and 1.1.4. The summary document (Exhibit 1.14) was distributed as a tabloid newspaper insert in community newspapers and the Mayor hosted five public meetings in March and April and an electronic town hall meeting in August. The City Council then conducted two of its own hearings, modified the proposed framework policies and held a hearing prior to adoption of the Framework Policies on June 29, 1992.

The next step was the preparation by the Mayor's Office of a draft Comprehensive Plan. A Comprehensive Plan Advisory Committee was appointed by the Mayor and City Council in October of 1992, conducted 50 meetings by fall of 1993. In addition, an Urban Villages Visualization Workshop was conducted in November of 1992 in order to "test" the merging Urban Villages Strategy. Exhibit 7.20, excerpts: at i-iii, 1-7. In April of 1993, the Mayor's office issued the first official draft, recommended Comprehensive Plan entitled *Toward a Sustainable Seattle: Seattle's Plan for Managing Growth*. Exhibit 1.20.

Between April and November of 1993, 1750 copies of the draft plan were distributed, 1500 copies of the Draft Environmental Impact Statement and 12,000 copies of a Citizens Guide to the Draft Comprehensive Plan (Exhibit 1.23) were distributed. The City then held community workshops in 15 locations city-wide in June and July of 1993. In October, the Planning Commission and Neighborhood Business Council convened two workshops focused on planning for neighborhood business in the proposed Hub and Residential Urban Villages. In November, the City published *A Report Back to the Community* (Exhibit 1.26) and distributed to all participants.

The Planning Department sent staff to 150 community meetings throughout Seattle in late 1993 and early

1994. In March of 1994, the City issued *The Mayor's Recommended Comprehensive Plan, Toward a Sustainable Seattle*. An 800-page document, this plan and a citizen's guide were distributed to libraries and neighborhood service centers and a postcard announcing it was mailed to each person on the Comprehensive Plan mailing list.

Beginning on March 28, 1994, and April 4, 1994, the City Council held four public hearings on the Mayor's proposed Comprehensive Plan. On April 28, 1994, the Planning Commission and city staff assisted City Council in holding an open house in Ballard. After deliberating on the public input, the Council, on June 7, 1994 issued *Draft for Public Review and Comment, Preliminary City Council Comprehensive Plan*, (Exhibit 1.29) and A summary of City Council changes to the Mayor's Recommended Seattle Comprehensive Plan 1994-2014. (EXHIBIT 1.30) These documents were distributed to libraries and neighborhood service centers. Flyers were mailed to the Comprehensive Plan mailing list announcing availability of these documents and the schedule of workshops and hearings.

On June 13, 1994, the Planning Commission, City Council and Mayor hosted a Mayor's Town Meeting in West Seattle specifically to focus on the comprehensive plan and urban villages strategy. One June 21, 1994, the Council staff conducted a workshop at the Downtown Public Library.

The City Council held three public hearings on its recommended plan: June 28, 1994, at Gatewood Elementary, June 29, 1994, at Center Park and June 30, 1994, at Whitman Middle School. These hearings were heavily attended, and the Council used time limits. (Comments of Council member Street at June 28, 29 and 30 hearings, Exhibit 11.7-11.9). In addition, written comments on the plan were submitted to the Council. Second Amended Index to Record, at 6. The Council met on July 6, 8, 11, 12, 13 and 15 to prepare final revisions to the plan. The Council adopted the Plan on July 25, 1994.

POSITION OF THE PARTIES

WSDF

WSDF alleges that the City did not comply with the requirements of RCW 36.70A.140 and RCW 36.70A.020(11) and the recommendations of WAC 365-195-010 regarding public participation. WSDF argued that the public was prevented from meaningfully participating in the City's process because critical information was unavailable in a timely fashion, or in some cases not at all. WSDF Brief, at 50. WSDF alleged that the meetings and workshops:

...were dominated by Planning Department staff "trained" in group management psychology techniques to move groups to a predestined conclusions. The suggested script in the record, used in training staff, demonstrates how to sell the Plan's urban villages concept, not how to facilitate independent input on it. WSDF Brief, at 51.

WSDF complains that the City did not have additional public hearings prior to the adoption of the Plan, despite WAC 365-195-600(2)(a)(v) which recommends that an additional public hearing be held after a plan is proposed for adoption. WSDF Brief, at 55.

WSDF asserts that:

...the GMA's enhanced public participation requirement mandates that citizens have input in the process at all points, from the fundamental Plan assumptions along through each draft, with full information and a reasonable time in which to comment. That did not occur here. WSDF Brief, at 57 (Emphasis in original).

WSDF argues that the City's process for public participation was not continuous, but only really began when it was too late to be effective. Rather than being a "bottom up" effort, WSDF contends that the urban village concept and implementation were imposed from above, by the Mayor, the Planning Department and the City Council. WSDF Brief, at 57.

Seattle

The City maintains that:

From the inception of the planning process the public participated extensively in articulating public values and developing framework policies, which, in turn, shaped the development of the numerous plan drafts and the Plan as finally adopted. The entire process was an ongoing dialogue between the City and its citizens, and there were multiple iterations of the plan as the City responded to public input.... City's Brief, at 7.

The City also argues that the size, detail and content of the plan, including the urban villages concept evolved over time as a testament to the effectiveness of the public participation process. In responding to much of WSDF's argument, the City states:

WSDF largely got what its members said they wanted, and they got it because of the very public participation they now challenge as defective. City's Brief, at 8.

In response to WSDF's criticism that the City trained staff to "sell" the proposed plan, the City cites to the CTED recommended procedures:

...[e]ach jurisdiction should make every effort to collect and disseminate public information explaining the Act and the process involved in complying with it ... Planners should actively seek to appear before community groups to explain the Act and the plan development process. WAC 365-195-600(2)(a)(vii).

In response to WSDF's contention that the Council thwarted public participation by establishing and attempting to adhere to time limits on public testimony at hearings, the City argued that this was a reasonable limitation in view of the number of people wishing to testify and the time available. The City also points out that people also had the opportunity to submit their testimony in writing. City Brief, at 34.

In response to WSDF's claim that the Council manipulated the hearings by taking speakers out of order, the City counters that rotating pro and con speakers is standard procedure at Council hearings and was

clearly explained at each hearing.

Turning to WSDF's complaint that the Council did not hold additional public hearings immediately before adopting the plan, the City argues that this would amount to an "endless cycle" argument. The City states that "at some point, a decision making process must come to an end" and that the Council must eventually make a decision. City Brief, at 35.

The City states that the essence of WSDF's public participation claim is that "the Plan was imposed from above, rather than coming from the "bottom up" and argues that the Act imposes no such requirement. The City cites *Rural Residents* in support of the proposition that the public participation provisions of the GMA do not require that the most popular plan is the one that must ultimately be adopted. Further, the City argues that the evolution of the urban villages concept reflects "a genuine bottom up effort." City Brief, at 36.

BOARD DISCUSSION

Much of the City's brief is a recounting of the many hundreds, if not thousands, of the individual notices, workshops, hearings, plan drafts and media used by the City to engage the public in participation in development of the plan. The citations in the City's brief and the exhibits in the record constitute an impressive record of the ways in which the City attempted to satisfy the requirements of RCW 36.70A.020 (11) and .140. However, the Board agrees with WSDF that the sheer mass of the City's efforts is not the issue here, but rather the quality and specifics of the City's attempts to engage the public in this effort.

The Board is not persuaded that WSDF has shown, by a preponderance of the evidence, that the City attempted to "manipulate" the process. The City's efforts, as part of its public participation program, to have the planning department staff explain the Act's requirements and the City's draft urban villages strategy does not constitute "manipulation." The same holds true regarding the allegation that the City Council attempted to stifle opposition in its conduct of the public hearing. A review of Exhibit. 11.7, a transcript of Councilman Street's remarks to the audience at the June 28, 1994 hearing at Gatewood Elementary in West Seattle, reveals that the time limits were clearly explained as the inevitable consequence of the practical constraints of limited time and a large volume of speakers. The rotation of speakers from pro to con appears to be the Council's common practice rather than a willful attempt to limit or stifle opposition.

Even if the Board were to agree with WSDF that the amount of time allotted for individual speakers at the public hearing was too limited to allow the public to make its wishes known to the Council, there is nothing in the record that suggests that the opportunity for written comment was foreclosed. For purposes of satisfying the requirements of RCW 36.70A.140, written comments carry just as much weight as oral comments. This is particularly the case when there is a specific proposal under review and the public is invited to comment upon it, rather than help formulate it. *See Tracy*, at 14. *See also Twin Falls* at 75.

WSDF did not specifically claim that the City was required by the Act to conduct additional public hearings prior to the adoption of the plan, but cited to the recommendation in the procedural criteria that a local government do so. WAC 365-195-600(2)(a)(v)^[45] provides:

Public hearings. When the final draft of the plan has been completed, at least one public hearing should be held prior to the presentation of the final draft to the legislative authority of the jurisdiction adopting it. When the plan is proposed for adoption, the legislative authority should conduct another public hearing prior to voting on adoption.

As the Board held above, the Act does not require the Council to have a hearing at all, regardless of whether the Council chose to adopt the Mayor's draft plan in whole or in part. While the Board does not encourage local legislative bodies to dismiss out of hand the value of holding one or more hearings prior to adopting a proposed comprehensive plan, we are compelled to point out that the GMA does not impose such a requirement. The decision to do so, or not, is left to the discretion of each local legislative body.

Of greater concern to the Board is the question of whether the Council's addition of Land Use Element Policy L14 and Land Use Appendix A so late in the process constituted a change that violated RCW 36.70A.140; in effect, a revision that required an opportunity for public review and comment prior to Council action. With the limited facts in the present case, and the above cited authorities in mind, the Board now fashions and then applies a test to address the matter of such changes or revisions.

The Test

If a local legislative body wishes to make changes to the draft of a proposed comprehensive plan that, to that point, has ostensibly satisfied the public participation requirements of RCW 36.70A.020(11) and .140, it has the discretion to do so. However, if the changes which the legislative body wishes to make are substantially different from the recommendations received, its discretion is contingent on two conditions: (1) that there is sufficient information and/or analysis in the record to support the Council's new choice (e.g. SEPA disclosure was given, or the requisite financial analysis was done to meet the Act's concurrency requirements) and (2) that the public has had a reasonable opportunity to review and comment upon the contemplated change. If the first condition does not exist, additional work is first required to support the Council's subsequent exercise of discretion. If the second condition does not exist, effective public notice and reasonable time to review and comment upon the substantial changes must be afforded to the public in order to meet the Act's requirements for "early and continuous" public participation pursuant to RCW 36.70A.140.^[46]

Application of the Test

Seattle proposed its urban villages strategy as early as November, 1992. The Mayor proposed adoption of an urban villages strategy that fully designated and established precise boundaries for all the urban centers and villages that ultimately were only preliminarily designated in the adopted Plan. Throughout the process leading up to the Mayor's Recommended Plan, the public had numerous opportunities to comment upon the urban villages strategy. Furthermore, and most important, once the Mayor submitted his final recommendation to the City Council, the City Council held public workshops, issued a document that showed the changes to date between the Mayor's Recommended Plan and its preliminary plan, and held several public hearings.

Board Member Philley concludes that the adoption of Land Use Element Policy L14 was not a substantial change over what the Mayor's Recommended Plan contained. It is conceded that the City Council allowed little time between the time it proposed Land Use Element Policy L14 and the time it adopted the Plan on July 25, 1994. However, the amount of time between this policy change is not as relevant as whether the change itself was substantial. The public had two years to comment upon the urban villages strategy. Such participation could have ranged from full support of the concept to total opposition to it. Although the Mayor wholly recommended full adoption of the concept, it was the City Council's duty to apply its discretion in making the ultimate decision of what the final adopted comprehensive plan would include. Fully accepting the Mayor's Recommended Plan would not have constituted a substantial change. Likewise, totally rejecting the Mayor's Recommended Plan would not have been a substantial change either, unless it was replaced with something entirely new as the purpose of the numerous public hearings was to gather public input on whether or not urban villages should be adopted.

The fact that the City Council took the middle ground, neither fully adopting the urban villages strategy nor totally rejecting it, but instead implementing the urban centers and urban centers villages portions only and deferring the rest, does not mean that this was a substantial change. A substantial change would have been if the Council adopted a totally new concept that had not been presented before and had not been the subject of any prior rigorous public scrutiny. In contrast, the urban villages strategy was before the citizens of Seattle for a lengthy period in which they had numerous opportunities to comment upon it.

Because only two Board members are participating in this case, and because the two members disagree on this specific legal issue only (see Board Member Tovar's dissent below), Seattle prevails and the City's public participation process is found to be in compliance with the Act. RCW 36.70A.270(4) and (6). See also WAC 242-02-870.

Board Member Tovar's dissent

The record indicates that the Council's decision to defer the timing of the implementation of residential and hub urban villages and supporting capital facilities/fiscal analysis occurred no sooner than July 15, 1994. The earliest evidence of the proposal to defer setting the boundaries of residential and hub urban villages was the tape recording of the July 15, 1994 City Council hearing.^[47] There was no document in the record of this deferral that pre-dates the July 25, 1994 adopted Plan, which embodies the concept in Land Use Policy L14 and Land Use Appendix A. Likewise, there is nothing before the Board that indicates how the fact of this change was communicated to the general public. At the hearing on the merits, WSDf was asked if any opportunity was afforded for public comment on the proposed boundary deferral. The answer was that no such opportunity was afforded. The City did not respond to the contrary.

Even if such effective notice of this change was given, it was then just 10 calendar days until the Council took action adopting the Plan on July 25, 1995. As noted earlier, it took many hours, several readings and some original arithmetic for the Board to conclude that, under this Plan, 75 percent of the City's growth is to be directed to the 18 percent of the City's land mass comprised of designated urban centers and/or urban villages. However, because residential and hub urban villages are not now adopted (as opposed to designated), this has the apparent, albeit perhaps unintended, consequence that the Plan directs 75 percent

of the City's growth to just 6 percent of the City's land mass. In my judgment, such a potential outcome constitutes a substantial change when compared to the two plans on which the public gave public comment, i.e. the Mayor's proposed Plan and the Council's June 6, 1994 draft proposed Plan.

Moreover, it does not seem reasonable to expect members of the public to have to analyze the likely, although perhaps unintended, consequences of this change and to then make known their views, even in written form, in just 10 days. For these reasons, I conclude that the Council's action adding Policy L14 and Land Use Appendix A to the proposed Comprehensive Plan on July 15, 1994 constituted a substantial change and that the public did not have a reasonable opportunity to comment on this change before the Council acted on July 25, 1994. Therefore, I would find that the City has violated RCW 36.70A.020(11) and .140 and remand Policy L14 and Land Use Appendix A to the City with directions that they delete them and provide a reasonable opportunity for public comment prior to consideration by the Council of subsequent re-adoption.

CONCLUSION NO. 11

WSDF has failed to persuade the Board, by a preponderance of the evidence, that the City has failed to provide for public participation as required by RCW 36.70A.020(11) and RCW 36.70A.140.

IV. ORDER

Having reviewed the above-referenced documents and the file in this case, having considered the oral arguments of the parties, and having deliberated on the matter, the Board enters the following order.

The City of Seattle Comprehensive Plan is **in compliance** with the requirements of the Growth Management Act except:

- 1.) Capital Facilities Plan Element—The Capital Facilities Plan Element is **remanded** with instructions for the City to bring it into compliance consistent with the Board's Final Decision and the requirements of RCW 36.70A.070(3).
- 2.) Transportation Element—The Transportation Element of the Plan is **remanded** with instructions for the City to bring it into compliance consistent with the Board's Decision and the requirements of RCW 36.70A.070(6).

It is not the Board's role to impose its opinions about the value or wisdom of optional features of a comprehensive plan. Instead, the Board is charged with determining whether those features are internally consistent and comply with the requirements of the Act. The Board's holding that the Plan's Capital Facilities Plan and Transportation Elements do not comply with the requirements of the Act, particularly because of the manner in which only urban centers and urban villages have been adopted, is not a judgment that the urban villages strategy itself is faulty. To the contrary, the City's urban village strategy appears to be the kind of innovative technique that the Act encourages. Yet the Act also requires that a community's vision, as embodied in its comprehensive plan, be supported by an analytical rigor and an ability to provide the necessary infrastructure.

v.)
)
CITY OF SEATTLE,)
)
Respondent.)
_____)

The complete text of the Plan's goals and elements listed in Legal Issue No. 1 are as follows:

Land Use Element Goals:

A. PREFERRED DEVELOPMENT PATTERN

Goal G1 Maintain and enhance Seattle's character. Seattle's character includes large single-family areas of detached houses both inside and outside of villages, many thriving multifamily areas, neighborhood commercial areas, industrial areas, major institutions and a densely developed downtown with surrounding high density neighborhoods. Exhibit 1, at 5.

Goal G2 Respect the city's human scale, history, aesthetics, natural environment, and sense of community identity. Exhibit 1, at 5.

Goal G5 Reduce the potential for dispersed growth along arterials and in other areas not conducive to walking, transit use and cohesive community development. Exhibit 1, at 5.

Goal G6 Depending on the circumstances of each area, establish concentrations of employment and housing at varying densities and with varying mixes of uses. This is the intent of the several types of urban villages.

Urban centers are intended to be the densest areas with the widest range of land uses. Functional designations of urban center villages indicate which uses are intended to be emphasized in the mix.

Hub urban villages are also intended to accommodate a broad mix of uses, but at lower densities than center villages, at intensities appropriate to the stage of development of the area.

Residential urban villages are intended for concentrations of low to moderate densities of predominantly residential development with a compatible mix of support services and employment.

In some instances, the urban village designation is intended to transform automobile-oriented environments into more cohesive, mixed-use pedestrian environments, or within economically distressed communities to focus economic reinvestment to benefit the existing population. Exhibit 1, at 5-6.

HUB URBAN VILLAGES

Goal G22 Promote employment and commercial services that serve the populations of the [hub urban] village, the city and the region. Exhibit 1, at 20.

Goal G23 Support densities that support transit use.

Goal G24 Provide locations for employment and commercial services that serve the surrounding city and region, in addition to the [hub urban] village population. Exhibit 1, at 20.

Goal G25 Allow for concentrations of employment at locations convenient to the city's residential population to improve transportation by reducing work trip commutes. Exhibit 1, at 20.

RESIDENTIAL URBAN VILLAGES

Goal G26 Promote urban villages that function primarily as compact residential neighborhoods providing opportunities for a wide range of housing types. While residential use is emphasized, a mix of other compatible activities, especially those that support residential uses, is appropriate. Employment activity is also appropriate to the extent that it does not conflict with the overall residential function and character of the village, provided that a different mix of uses may be established through a neighborhood plan approved by the City Council, such as the South East Seattle Redevelopment Area policies. Exhibit 1, at 23.

Goal G27 Support densities that support transit use. Exhibit 1, at 23.

RESIDENTIAL AREAS

Goal G40 Maintain existing residential neighborhoods and create new residential neighborhoods to accommodate the city's existing and future housing needs. Exhibit 1, at 32.

SINGLE-FAMILY RESIDENTIAL AREAS

Goal G42 Maintain the character of areas that are predominantly developed with single-family structures, including the use, development and density characteristics of existing single-family areas. Exhibit 1, at 32.

HIGH-DENSITY SINGLE-FAMILY AREAS

Goal G47 Protect areas which are currently in predominantly single-family residential use. Exhibit 1, at 34.

Land Use Element Policies

AREAS OUTSIDE OF URBAN VILLAGES

Policy L50 Single-family areas shall continue to be protected, both inside and outside of urban villages. However, through neighborhood planning, individual neighborhoods may consider ways of increasing housing opportunities in single-family areas that are brought into an urban village's boundary through the neighborhood planning process and are within easy walking distance (five minutes or five blocks whichever is less) of the designated principal commercial streets of the village, to provide additional alternatives to accommodating residential growth in multifamily and commercial areas. Such consideration shall be subject to further limitations provided in comprehensive plan policies for single-family areas, below, and in the Land Use Code. Exhibit 1, at 24.

SINGLE-FAMILY RESIDENTIAL AREA

Policy L74 Permit consideration of rezoning areas currently zoned single-family and meeting Land Use Code locational criteria for a single-family designation to zoning more intense than SF 5000, only when all of the following conditions are met:

- 1) the land is within an urban village boundary provided for in a neighborhood plan adopted by the City Council and the rezoning is provided for in a neighborhood plan adopted by the City Council;
- 2) the area is within easy walking distance (five minutes or five blocks whichever is less) of designated principal commercial streets of an urban village [*see* Land Use Element Policy L10];
- 3) the quantity of land of such rezones, on a cumulative basis, does not exceed the quantity of land shown in Land Use Appendix C below;
- 4) a. the rezone is to the small-lot zone, Lowrise Duplex Triplex zone, or Lowrise-1 zone designations only; or
b. the land to be rezoned is contiguous to an urban village commercial zone and the rezone is to a Neighborhood Commercial 30' zone designation with residential uses limited to Lowrise-1 density limits, or to a Lowrise-1R/C zone designation only; and
- 5) the change is made through a rezone procedure. Exhibit 1, at 33.

Transportation Element Goals:

C. LAND USE AND TRANSPORTATION

Goal G7 Ensure that land use and transportation decisions, strategies, and investments are coordinated, are complementary, and support the urban village concept. Exhibit 1, at 59.

D. USE OF STREETS

Goal G9 Ensure adequate capacity on the street system for transit and other important uses. Exhibit 1, at 60.

Goal G13 Protect neighborhood streets from through traffic. Exhibit 1, at 60.

Transportation Element Policies:

C. LAND USE AND TRANSPORTATION

Policy T11 Provide adequate transportation facilities and services to promote and accommodate growth and change in urban centers, urban villages, and manufacturing/ industrial centers. Seek to provide transit services and walking and bicycling opportunities to enable urban centers and urban villages to reach growth targets or planning estimates in a way that minimizes single-occupant vehicle travel. Exhibit 1, at 59.

D. USE OF STREETS

Policy T15 Designate principal arterials, a transit priority network, and major truck streets as described in the policies in this and other sub-elements, to identify the key functions of these streets. Make operating, design, access and/or service changes to enhance the key functions of these streets when congestion significantly hinders the key functions. Exhibit 1, at 60.

Policy T16 Designate principal arterials as shown in Transportation Figure 1. Design, operate, and regulate access along principal arterials to accommodate and facilitate through traffic and connect with regional facilities. Direct through traffic onto principal arterials and away from local streets. Continue to designate other classes of arterials in the Seattle Comprehensive Transportation Program. Exhibit 1, at 60.

Policy T17 Coordinate with the state Department of Transportation and adjacent jurisdictions to discourage the diversion of traffic from regional roadways and principal arterials onto lesser arterials and local streets. Exhibit 1, at 60.

Policy T18 Use neighborhood traffic control devices and strategies to protect local streets from through traffic, high volumes, high speeds, and pedestrian/vehicle conflicts. Use these devices and strategies on collector arterials where they are compatible with the basic function of collector arterials. Exhibit 1, at 60.

Policy T19 Manage the street system safely and efficiently for all modes and users, and emphasize pedestrian safety. Accommodate emergency vehicles. Exhibit 1, at 60.

Policy T20 Do not attempt to provide street space to meet latent demand for travel by car. Do not pursue freeway expansion for the sole purpose of increasing general traffic capacity. Increase capacity of principal arterials where and as appropriate, either by expansion or by operating changes. Increase capacity on streets other than principal arterials only if needed to improve safety; but allow increased capacity for isolated connections to regional roadways to maintain the integrity and continuity of the street system, or if needed to achieve level-of-service standards. Use transportation system management (TSM) techniques as appropriate to

manage street space. Reallocate street space among various uses (e.g., general traffic, transit, trucks, carpools, bicycles, parking, pedestrians) as needed to enhance the key function(s) of a street. Exhibit 1, at 62.

Housing Element Goals:

B. ENCOURAGING HOUSING DIVERSITY AND QUALITY

Goal G4 Achieve a mix of housing types attractive and affordable to a diversity of ages, incomes, household types, household sizes, and cultural backgrounds. Exhibit 1, at 82,

Goal G11 Strive for freedom of choice of housing type and neighborhood for all, regardless of race, color, age, gender, marital status, parental status, sexual orientation, political ideology, creed, religion, ancestry, national origin or the presence of any sensory, mental or physical disability. Exhibit 1, at 83.

Housing Element Policies:

1. ENCOURAGING HOUSING AFFORDABLE TO LOW-INCOME HOUSEHOLDS

Policy H26 Address the City's share of low-income housing needs resulting from expected countywide household growth, consistent with the Countywide affordable housing policies, by planning for:

- a. A number of units affordable to households between 0% and 50% of median income at least equal to 20% of expected household growth, or between 10,000 and 12,000 units.
- b. A number of units affordable to households between 50% and 80% of median income at least equal to 17% of expected household growth, or between 8,500 and 10,200 units.

Both new housing and existing housing that is acquired, rehabilitated or preserved for long-term low-income occupancy shall count as meeting this policy. Exhibit 1, at 87.

Policy H29 Encourage affordable housing in urban centers and urban villages.

- a. Seek to provide for at least one-quarter of the housing stock in each urban center and urban village ... to be affordable to households with incomes below 50% of median....

For those urban villages where very little housing exists today compared to anticipated residential growth, and where after 20 years most of the housing stock will comprise new construction, this policy is unlikely to be achieved within the 20-year time frame of this plan. For these villages, seek to provide at least 10% of the housing stock to be affordable to households with incomes below 50% of median income.

- b. Encourage the use of public subsidy funds for the production or preservation of low-

[1] Board member Chris Smith Towne did not attend the hearing or participate further in the case after an Order Granting WSDf's Motion to Disqualify was entered on February 6, 1995.

[2] WWGMHB Case No. 94-2-0002.

[3] WWGPHB Case No. 92-2-0001.

[4] Land Use Element Policy L17 (Exhibit 1, at 9) indicates that urban center designations were made in the KCCPPs. The Board takes official notice of the KCCPPs, initially adopted pursuant to King County Ordinance No. 10450 on July 6, 1992. See Chapter II, Part D(1), (2), and (3) of the KCCPPs, at 19-23.

[5] The Seattle Center Urban Center encompasses a broader geographic area than just the City-owned "Seattle Center" (former World's Fair site). Compare map in the Plan, Land Use Figure 4 (Exhibit 1, at 16) with the map in Exhibit 1.32, at 115.

[6] Core values are described in the Vision Resolution as community, environmental stewardship, economic opportunity and security, and social equity. Exhibit 1, at vi.

[7] Importantly, the fact that urban villages have been "designated" does not necessarily mean that the boundaries of designated urban villages have been established.

[8] Neither Land Use Element Policy L13 or L19 indicates how many "urban center villages" are located within urban centers. However, a total of 12 urban center villages are shown on Land Use Figures 2, 3 and 5 of the Plan (Exhibit 1, at 15-16) while 14 urban center villages are listed in Land Use Element Policy L21. Exhibit 1, at 11. Although Northgate and the Seattle Center are listed as urban center villages in Land Use Element Policy L21(3), pursuant to Land Use Element Policy L19 the Northgate and Seattle Center urban centers are "presently considered to be too small to be subdivided into [urban] center villages...." Exhibit 1, at 11.

To further confuse matters, *at first glance* Land Use Appendix B lists 17 urban center villages including three not listed in Policy L21 or specified in Land Use Figures 2, 3 and 5 of the Plan. (Exhibit 1A, at A6). In fact, a *close reading*, coupled with taking the time to add the precise acreage amounts given, verifies that 14 urban center villages are listed in Land Use Appendix B and that the reference to "Downtown Urb. Center, First Hill/Cap. Hill Center and Univ. Dist. Urb. Center" is actually a category heading rather than an individual urban center village. For example, under the first category "Urban Center Villages," 770 acres are listed for the "Univ. Dist. Urb Center." Rather than being the acreage for a separate urban village, that amount is the total acreage for the three urban center villages within that specific urban center. The chart is misleading because "urban centers" are listed within the "urban villages" heading and because there is no indication that the data listed in the rows corresponding to the urban centers is the total for all urban villages inside that center.

[9] Neighborhood Planning Element Policy N14 describes the neighborhood planning process that will:

"Ensure that all urban centers, urban villages and manufacturing/industrial centers are included in comprehensive neighborhood plans, which at a minimum do the following:

"a. Review and amend or confirm the preliminary urban center villages boundaries;

"b. Review and amend or confirm preliminary hub urban village, residential urban village and neighborhood anchor designations;

"c. Establish boundaries for hub urban villages and residential urban villages considering as one option the boundaries identified in [Land Use] Appendix A for each urban village, provided, that: if at the end of the neighborhood planning

cycle, a village boundary has not been established for a hub or residential urban village, the boundary shown in Land Use Appendix A of this plan shall become the boundary for that urban village...." Exhibit 1, at 115 (emphasis added).

[10] Land Use Element Policy L33 specifies the exact number of hub urban villages: seven. In contrast, Land Use Element Policy L44 simply indicates that residential urban villages exist, without specifying the precise number of such villages. One discovers that there are 18 residential urban villages only by counting the number of symbols on Land Use Figure 1 of the Plan, or counting the number of designations labeled as such on Land Use Appendix A.

[11] One discovers that there are 25 neighborhood anchors by counting the number of bullet symbols shown on Land Use Figure 1 or by simply referring to the list of such anchors provided in Land Use Figure 1.

[12] The future land use map also contains a disclaimer:
"The future land use map is intended to illustrate the general location and distribution of the various categories of land uses anticipated by the Comprehensive Plan policies over the life of this plan; it is not intended to provide the basis for rezones and other legislative and quasi-judicial decisions, for which the decision makers must look to the Comprehensive Plan policies and various implementing regulations." Exhibit 1B.

[13] "West Seattle" is a portion of Seattle commonly referred to as lying generally southwest of downtown Seattle in the hills west of and above the Duwamish Waterway.

[14] See Exhibit 1, at 3, under "Appendices" heading.

[15] The City's description of urban villages as a "concept" is used on numerous occasions throughout the City's Brief.

[16] Policy L19 does suggest that, although the Seattle Center and Northgate Urban Centers were not subdivided into urban center villages, they could be in the future. This is similar to saying that areas of the city that subsequently meet the designation criteria for an urban center or any type of urban village may be so designated at that time. Until that happens, it is speculative and not relevant in the present case.

[17] Pursuant to Neighborhood Planning Element Goal G6, the City will strive to complete a neighborhood planning cycle within four years including comprehensive neighborhood plans which encompass all urban villages and neighborhood anchors. Exhibit 1, at 113. The Board notes that, pursuant to the "Application of the Comprehensive Plan" portion of the Plan, "... goals are not guarantees or mandates." Exhibit 1, at 2.

[18] The Board has reworded Legal Issue No. 1 for convenience and clarity. As originally set forth in the Prehearing Order, it stated:

"Are the Seattle Comprehensive Plan (the Plan) goals and policies LG1, LG2, LG40, LG42, LG47, L24, HG4, HG11, TG7, TG9, TG13, T11 and T15-20 consistent with LG5, LG6, L1, LG22-25, L32, L36-38, LG26-27, L41, L42, L45, H26 and H29, as required by RCW 36.70A.070?"

[19] In a footnote, WSDF correctly quotes the content of Land Use Element "Goal" G42 as a "Policy." although it mislabels it as a "Policy." WSDF's Brief, at 60. The Plan characterizes the difference between a "goal" and a "policy" as follows:

"The plan format generally presents a plan 'goal,' followed by 'policies' related to the goal, and may include a 'discussion' about the goals and policies. Each of these components is defined as follows:

"Goals represent the results that the City hopes to realize over time, perhaps within the twenty-year life of the plan, except where interim time periods are stated. Whether expressed in terms of numbers or only as directions for future changes, goals are not guarantees or mandates.

"Policies should be read as if preceded by the words "it is the City's general policy to"... A policy helps to guide the

creation or change of specific rules or strategies (such as development regulations, budgets, or program area plans). City officials will generally make decisions on specific City actions by following ordinances, resolutions, budgets or program area plans that themselves reflect relevant plan policies, rather than by referring directly to this plan. Implementation of most policies involves a range of City actions over time, so one cannot simply ask whether a specific action or project would fulfill a particular plan policy. For example, a policy that the City will "give priority to" a particular need indicates that need will be treated as important, not that it will take precedence in every City decision." Exhibit 1, at 2.

[20] The Board has had difficulty determining which precise goals and policies WSDF is referring to. All goals in the Plan are simply referenced by the letter "G" followed by a number (e.g., 'G5'). Yet the quote above from WSDF's Brief is to "HG". Presumably, WSDF means "Housing Goals G11, G15 and G31." However, WSDF refers to the goals as "Land Use Element HG11, HG 15 and HG 31." The "H" does not jibe with the phrase "Land Use Element." The Board notes that the WSDF's citation to page 12 of the Plan refers to Land Use Element Policies L22-L24. None of these policies seem to be on point. As for the reference to pages 82-83 of the Plan, these refer to Housing Element Policies H3 through H7, and Housing Element Goals G4 through G11. WSDF's reference to page 86 of the Plan refers to Housing Element Policies H24 and H25, and Housing Element Goals G12 through G17. WSDF's reference to page 88 of the Plan refers to Housing Element Policies H29 through H31. Of all these goals and policies, only Housing Element Goals G4 and G11 and Housing Element Policy H31 is listed in Legal Issue No. 1.

[21] The City's Brief, at 89, erroneously cites to RCW 36.70A.070(3) rather than subsection (2).

[22] WAC 365-195-060(7) provides:

"The following represent the department's interpretation of several critical concepts about which the express terms of the act are not clear. While not necessarily the only appropriate way to view the concepts involved, these interpretations appear to be supported by the overall statutory context.

"...(7) Consistency. The act calls for 'consistency' in a number of contexts. In general, the phrase 'not incompatible with' conveys the meaning of 'consistency' most suited to preserving flexibility for local variations. An important example of the use of the term is the requirement that comprehensive plans be internally consistent. This requirement appears to mean that the parts of the plan must fit together so that no one feature precludes the achievement of any other. (E.g., the densities selected and the wetlands to be protected can both be achieved on the available land base.) A second significant example is the requirement that each comprehensive plan be consistent with other comprehensive plans of jurisdictions with common borders or related regional issues. Determining consistency in this interjurisdictional context is complicated by the differences in timing which will occur in the adoption of plans. Initially interjurisdictional consistency should be met by plans which are consistent with and carry out the relevant county-wide planning policies." (emphasis added).

WAC 365-195-500 indicates that:

"Each comprehensive plan shall be an internally consistent document and all elements shall be consistent with the future land use map. This means that each part of the plan should be integrated with all other parts and that all should be capable of implementation together. Internal consistency involves at least two aspects:

"(1) Ability of physical aspects of the plan to coexist on the available land.

"(2) Ability of the plan to provide that adequate public facilities are available when the impacts of development occur (concurrency).

"Each plan should provide mechanisms for ongoing review of its implementation and adjustment of its terms whenever internal conflicts become apparent." (emphasis added).

The Board although not bound by the Procedural Criteria, is required to consider them. See RCW 36.70A.320.

[23] See also Appendix D to the Plan which provides in part:

"Urban villages will play a major role in this plan. Urban villages are conceived as well identified and largely self-contained residential and commercial neighborhoods in the central city...." Exhibit 1A, at A102 (emphasis added).

[24] Housing Element Goal G15 states:

"Disperse housing opportunities for low-income households throughout the City and throughout King County." Exhibit

[25] WSDP cited to Land Use Element Goal "HG31." The Plan does not contain a Housing Element Goal G31. Therefore, the Board assumes WSDP was referring to Land Use Element Goal G31.

[26] The total of the listed minimum number of jobs equals 118,250. Presumably, the difference, 13,150 jobs, will occur in residential urban villages and the remainder of the city.

[27] The total of the listed maximum number of jobs equals 132,150. Presumably, the difference, 14,450 jobs, will occur in residential urban villages and the remainder of the city.

[28] 75 % of all new residential growth must go to urban centers and villages. G31.

I.e., $60,000 \times 75\% = 45,000$ additional households will go to urban centers and villages

I.e., $60,000 \times 25\% = 15,000$ additional households will not go to urban centers and villages

[29] 37% of all new residential growth must be affordable housing. H26

I.e., $60,000 \times 37\% = 22,200$ units of affordable housing throughout the City. This is broken down as follows:

- 20% of all new residential growth must be affordable to those with 0% to 50% of median income (i.e., $60,000 \times 20\% = 12,000$ units of affordable housing must be located throughout the City for those with 0%-50% median income)
- 17% of all new residential growth must be affordable to those with 50% to 80% of median income (i.e., $60,000 \times 17\% = 10,200$ units of affordable housing must be located throughout the City for those with 50%-80% median income)

[30] 25% of new residential growth in urban centers and villages must be affordable to those with median incomes below 50%. H29.

$45,000 \times 25\% = 11,250$ units of affordable housing in urban centers and villages

$45,000 \times 75\% = 33,750$ units in urban center and villages that do not have to be affordable housing.

[31] Land Use Appendix B lists the total acreage of each unadopted hub and residential urban village. The boundaries that correspond with this acreage will take effect by default if the neighborhood planning process fails to establish boundaries for designated urban villages. The total acreage was obtained simply by adding the acreage for each preliminarily designated urban village. The Board uses that acreage for illustrative purposes, realizing that the final acreage may be somewhat larger or smaller.

[32] The City, in the Appendices to the Plan, recognizes its affordable housing distribution challenge:

"... Assisted low and moderate-income housing in Seattle currently accounts for about 10 percent of Seattle's total housing stock -- 25,794 assisted units out of 251,761 total units...." Exhibit 1A, at A68.

"Assisted housing in King County is heavily concentrated in Seattle. While Seattle had only 39 percent share of households in King County in 1990, it had almost 70 percent of the assisted low-income housing. A number of concerns have been raised with respect to the regional distribution of low-income housing: concern about the impacts of overconcentration in several Seattle neighborhoods... As a result of the Growth Management Act Seattle and its neighbors have started working on a plan to achieve a more equitable distribution of affordable housing over the next twenty years...." Exhibit 1A, at A68.

"In order to encourage a more rational and equitable distribution of low-income housing within King County, the King County Countywide Planning Policies established low-income housing production targets for each jurisdiction in King County...." Exhibit 1A, at A105.

Appendix E to the Plan then discusses the 37percent target that is addressed by Housing Element Policy H26.

"The existing distribution of assisted housing in the City of Seattle is highly uneven (see Housing Figure A-20). Some neighborhoods, such as Downtown, the Central Area and parts of Southeast Seattle have very high concentrations of

assisted housing..." Exhibit 1A, at A69.

The Board observes that along with Downtown, the Central Area and parts of Southeast Seattle, a portion of West Seattle is also shown on Housing Figure A-20 as having a high concentration of assisted housing units. See Exhibit 1A, at A71.

[33] That portion of the CIP provides:

"INTRODUCTION

"Historically, the City's *Capital Improvement Program (CIP)* has allocated existing funds and known revenue sources to major maintenance and development capital projects for City departments over a six-year period.... It identifies both current and possible future requirements The City updates the CIP annually and adopts it with the City Budget.

"The *adopted 1994-1999 CIP* continues this tradition. However, the document format has expanded to include several new sections which meet many of the state requirements for planning under the Growth Management Act (GMA) as they relate to adoption of a Capital Facilities Plan, making this document an *interim Capital Facilities Plan*.

"GROWTH MANAGEMENT ACT

"...The Comprehensive Plan, following its adoption in mid-1994, will guide Seattle's capital planning practices in the future, all of which must support and help to carry out the vision for the future contained in the Comprehensive Plan.

"...During the next 20 years, the draft Comp Plan calls for Seattle to accommodate 72,000 new residents in 60,000 new households, and 146,000 new jobs. This amount of growth, according to the draft Comp Plan, is large enough to help reduce regional sprawl, and moderate enough to avoid changing too much too fast. Central to the draft Comp Plan's vision for Seattle is the expectation that residential, business, and industrial growth will be more focused, rely less on the car as the principal means of mobility, and be environmentally sustainable. Just as the region will direct growth into urban areas around Puget Sound to meet these objectives, so will Seattle direct the growth within its borders to specific urban areas (the draft Comp Plan designates these areas "Urban Villages"). Quite simply, as the draft Comp Plan proposes, these urban areas will be places where people can live, shop, play, go to school and, in many cases, work -- all within walking distance...." Exhibit 1.32, at 1 (italics added).

"...Recognizing that we are at an important juncture in the history of Seattle, the City has both the opportunity and the responsibility to make strategic capital and financial decisions that will shape this city's and the community's character well into the next century. To make those decisions responsibly means, however, a change in how the City has been conducting business. To make the vision for Seattle a reality we have to think about investing better and more strategically in the City's current capital facilities and for providing for future capital needs. All City departments have a role to play in their capital plans to achieve the City's vision contained in the Comp Plan. The City is currently developing a more sophisticated assessment of its financial condition, and new financial practices and policies to make available funding resources and financing mechanisms work harder and smarter for our future needs. This *capital financing strategy* will lay out the state of the City's finances and the implications for capital investment and capital priorities for the future.

"1994 ADOPTED INTERIM CAPITAL FACILITIES PLAN/1994-1999 CAPITAL IMPROVEMENT PROGRAM

"A requirement of planning under the GMA is that a city adopt a *Capital Facilities Plan (CFP)* as part of its Comprehensive Plan. ... In 1994, pending completion and adoption of the final Comprehensive Plan, Seattle again proposed to adopt an interim CFP in conjunction with the proposed 1994-1999 CIP.

"...The [1994 interim CFP/1994-1999 CIP] displays, on a city map at the end of this section, an inventory of existing City facilities... overlaid by an Urban Village map. In addition, city maps in each section indicate on a departmental basis the inventory of existing public facilities and systems, their locations, and, where known, their capacities. A separate map in each section shows the relationship of new capital projects in 1994 to the Urban Villages proposed in the draft Comprehensive Plan. Introductory sections to each department's program describe *future needs*, ["Future needs" per department are listed in narrative form under the heading "Projected Needs"] as forecast by individual department plans, and the six-year financing plan [The CIP does not contain a section specifically labeled "Six Year Financing Plan." Instead, one must read the chart for each department's "Program Summary" and "Summary by Revenue Source," and the narrative for each department's project listed under the heading "Major Maintenance, Renovation and Replacement"] indicates how known projects are to be funded over the following six-year period.

"The 1993 draft Comp Plan proposes a *phasing strategy* for the City's investments to coincide with, or spur changes in certain neighborhoods to achieve the goals of the Comp Plan, and to assure that Seattle's future is sustainable. The strategy for investing over time is based upon the *assumption* that Seattle will accommodate growth only as it is able to adequately support it, and continue to serve all citizens with *adequate services and facilities*. Until the Comprehensive

Plan is adopted in mid-1994 the relationship between the *proposed phasing strategy* and the CIP is not stressed. The 1995-2000 CIP will indicate how the City's proposed capital investments support the phasing strategy adopted with the Comp Plan for attaining the goals of the Plan." Exhibit 1.32, at 2 (italics added).

"The 1994 Interim CFP is based on the City's traditional Capital Improvement Program. It contains some of the requirements of the GMA, begins to identify some *future capital needs* for inclusion in the final Comprehensive Plan, and describes possible new financing strategies and sources for funding those needs. The 1995-2000 CIP and subsequent CIPs will revert to the original purpose of allocating funds over six-year periods to implement the capital project strategy and phasing strategy in support of the vision contained in the Comprehensive Plan." Exhibit 1.32, at 3 (italics added).

[34] CPSGPHB Case No. 93-3-0009.

[35] Although Part C of the Capital Facilities Element of the Plan distinguishes between "future capital needs" and "capital enhancements" (see Exhibit 1, at 95-96), it does not discuss "amenities" *per se*.

[36] The City points out that the Plan's reference to the 1994-1999 CIP was amended in Ordinance 117436 to refer to an updated CIP for the years 1995-2000. Ordinance 117436 was passed by the City Council on December 12, 1994 and approved by the Mayor on December 19, 1994.

[37] When the Mayor introduced his version of the Plan (Exhibit 1.27, the Mayor's Recommended Comprehensive Plan) in March 1994, the proposal contained not only designations but specific boundaries for all urban villages. See Exhibit 1.27, Land Use Figure 1, between pages 17 and 18. The adopted Plan defers making final designations of all urban villages and defers establishing actual boundaries for hub urban villages, residential urban villages, and neighborhood anchors until the neighborhood planning process.

[38] The fact that the KCCPPs required the adoption of urban centers does not off-set the need to conduct the appropriate analysis for those centers.

[39] "Public facilities" include:

"...streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools." RCW 36.70A.030(13).

[40] Although the City's Brief alleges that only 9,000 additional persons will be added to Seattle's population in the next six years, no citation to the record supports the claim.

[41] "Public services" include:

"...fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services." RCW 36.70A.030(14).

[42] Admittedly, the manner in which Seattle has incorporated the CIP by reference, and the way that is organized, is somewhat confusing. For instance, the Plan simply refers to the CIP as "the six-year Capital Improvement Program (CIP)" (Exhibit 1, Capital Facilities Plan Element Policy C5, at 94), or "the 1994-1999 CIP." Exhibit 1, at 95-96. Instead, the full title of the document is "Seattle 1994 Adopted Interim Capital Facilities Plan -- 1994-1999 Capital Improvement Program." Exhibit 1.32. It would have been helpful to any citizen intent on actually reading the Plan, to fully recite at least once the name of the document being incorporated by reference.

Second, when one turns to the CIP looking for, as the Plan indicates, the "forecasted future capital needs," the "locations and capacities of the new or expanded capital facilities" and the "sources of funding," for each new or expanded capital facility, one finds no helpful headings in the CIP that correspond to those categories mentioned in the Plan. Although all the information is

contained in the CIP, it is difficult to find since it is interspersed in the different department sections of the CIP and is often buried in the general narrative.

[43] **"Discussion:** Increased trips by motor vehicles, increased travel time, congestion, and longer trips all contribute to deteriorating environmental quality. Policies in other parts of the plan and elsewhere in the transportation element that reduce car use, support transit, and encourage walking and bicycling are key to reducing transportation-related environmental impacts..." Exhibit 1, at 56.

"Discussion: To slow the trend of increasing car use, the City must provide alternatives and must change the way people think about and act upon travel choices..." Exhibit 1, at 57.

"Educate the public, especially youth, about the individual and societal benefits of alternatives to cars..." Exhibit 1, Transportation Element Policy T6, at 57.

"Evaluate, against the following mode choice goals, the success of the City's and the region's land use strategies, and transportation systems and programs, in reducing single-occupant vehicle use.

"Travel modes for work trips by Seattle residents:

	1990	2000	2010
Single-occupant car	59%	51%	35%
Non-single-occupant car:			
Carpool	12%	12%	12%
Public transportation	16%	20%	27%
Bicycle and other	3%	5%	9%
Walk	7%	8%	10%
Work at home	3%	4%	6%
Total	100%	100%	100%

"For non-work trips by Seattle residents, the goals are to increase transit use from 7 percent in 1990 to 9 percent in 2000 and 14 percent in 2010." Exhibit 1, Transportation Element Policy T10, at 58.

"Do not attempt to provide street space to meet latent demand for travel by car. Do not pursue freeway expansion for the sole purpose of increasing general traffic capacity.... Increase capacity on streets other than principal arterials only if needed to improve safety..." Exhibit 1, Transportation Element Policy T20, at 62.

"Provide enough parking to sustain the economic viability and vitality of commercial areas while discouraging commuting by single-occupant vehicle." Exhibit 1, Transportation Element Goal G15, at 66.

"Reduce use of cars over time, particularly for commute trips." Exhibit 1, Transportation Element Goal G16, at 66.

"Discussion: ... the challenge is to provide enough parking to meet mobility and economic needs, while limiting supply to encourage people to use non-auto modes." Exhibit 1, at 66.

"Increase transit ridership, and thereby reduce use of single-occupant vehicles..." Exhibit 1, Transportation Element Goal G19, at 68.

[44] The City acknowledges having "other desired transportation investment projects (e.g., Spokane Street viaduct, Mercer corridor), but no funding has been identified yet so future spending on these projects is not included in Figure 8." Exhibit 1, at 78.

[45] The Board is required by RCW 36.70A.320 to "consider" the procedural criteria prepared pursuant to RCW 36.70A.190(4), however, the Board is not bound by them. When the Board agrees with the procedural criteria, it will so state. As to the description of the GMA at WAC 365-195-010(3), as a "bottom up process," the Board notes that these words do not appear in the statute, nor is it entirely accurate to characterize the Act in this manner. See *Rural Residents*, at 14.

[46] The legislative body would have the option of allowing written comment, oral comment or both. If a public hearing was selected, the legislative body would have the option of remanding to a Planning Commission or other hearing body and/or conducting its own hearing.

[47] Following is a partial transcript of the tape recording of the July 15, 1994 Seattle City Council Meeting. Council Member -

Martha Choe speaking:

"I have a question for staff... I know because it just surfaced this morning - we had a number of questions - if we are to eliminate the Urban Village boundaries, my understanding is that to go forth with implementation we need to continue to have some guidelines for the kinds of things that I think council member Donaldson had wanted us to consider; capital investment, commercial district development. And so, I guess I would ask staff for their opinion about some help on this language. I think we need some definitions if we eliminate boundaries, but I'd be interested in your response to council member's three issues and questions, and also mine as well. Nothing like putting you on the spot here." Exhibit 11.10 (emphasis added).