

CENTRAL PUGET SOUND

GROWTH MANAGEMENT HEARINGS BOARD

STATE OF WASHINGTON

THE CHILDREN'S ALLIANCE and)
LOW INCOME HOUSING INSTITUTE,)Case No. 95-3-0011

)
Petitioners,)ORDER PARTIALLY)GRANTING BELLEVUE'S v.)DISPOSITIVE
MOTION

)
CITY OF BELLEVUE,)

)
Respondent,)

)
On February 2, 1995, the Central Puget Sound Growth Management Hearings Board (the **Board**) received a Petition for Review from the Children's Alliance and Low Income Housing Institute (hereafter collectively referred to as the **Alliance**) challenging the City of Bellevue's (the **City**) adoption of its "Group Homes Amendment Ordinance of 1994," City of Bellevue Ordinance No. 4696-A (the **Ordinance**).

The Board held a prehearing conference on March 23, 1995. Subsequently, the Board issued a Prehearing Order and an Amended Prehearing Order that included deadlines for filing motions and briefs, and set forth twelve legal issues.

On April 14, 1995, the "City of Bellevue's Motion for Partial Summary Judgment on Legal Issues 3, 4, 5, 6, 7, and 11" ¹ (**City's Motion**) was filed with the Board. Two exhibits were attached to the City's Motion: a copy of the Ordinance and excerpts from relevant statutes and administrative code provisions.

On April 21, 1995, the "Petitioners' Response to City of Bellevue's Motion for Partial Summary Judgment" (**Alliance's Response**) was filed with the Board. One exhibit was attached to the Alliance's Response, an excerpt from the King County County-wide Planning Policies (**CPPs**).

On April 25, 1995, the "City of Bellevue's Reply to Petitioners' Response to City of Bellevue's Motion for Summary Judgment on Legal Issues 3, 4, 5, 6, 7, and 11" (**City's Reply**) was filed with the Board along with one exhibit, an excerpt from the King County CPPs.

The parties did not request a hearing on the City's Motion. Therefore, the Board issues this order based upon a review of the above-referenced documents.

I. FINDINGS OF FACT

No facts, material or otherwise, were disputed by the parties. The Board enters the following findings of fact:

- 1.) On December 6, 1993, the City enacted Resolution No. 5726, adopting its comprehensive plan pursuant to the requirements of the Growth Management Act (**GMA** or the **Act**). Exhibit 1 to City's Motion, at 1.
- 2.) The Board takes official notice of the fact that no challenges to the City's comprehensive plan were subsequently filed with the Board.
- 3.) On November 21, 1994, the Bellevue City Council passed the Ordinance. Exhibit 1 to City's Motion, §13, at 14.
- 4.) On December 4, 1994, the City published notice of adoption of the Ordinance. Exhibit 1 to City's Motion, at 14.

II. LEGAL ISSUES BEFORE THE BOARD

The City's Motion contends that Legal Issues Nos. 3, 4, 5, 6, 7, and 11, as set forth in the Board's Amended Prehearing Order, should be dismissed. These issues ask:

3. Is a development regulation and this Ordinance required to comply with RCW 36.70A.070(2), RCW 36.70A.200, RCW 36.70A.100, RCW 36.70A.210, and related sections of the Growth Management Act - Procedural Criteria for Adopting Comprehensive Plans and Development Regulations, Chapter 365-195 WAC?
4. If yes, does the Ordinance comply with RCW 36.70A.070(2)(c), (d) and WAC 365-195-310(1)(c) and (d)?
5. If yes, does the Ordinance comply with RCW 36.70A.200 and WAC 365-195-340(1)(a) and (c)?
6. If yes, does the Ordinance comply with RCW 36.70A.100 and WAC 365-195-070(7) and WAC 365-195-520?
7. If yes, does the Ordinance comply with RCW 36.70A.210 and WAC 365-195-070(7) and WAC 365-195-520?
11. Is a development regulation required to be consistent with the King County County-wide Planning Policies? If yes, is the Ordinance inconsistent with the following policies?
 - a. Inconsistent with original policy FW-20
 - b. Violates original policies CC-4 and -5
 - c. Conflicts with original policy FW-24
 - d. Conflicts with original policies AH-1 and AH-2
 - e. Violates CPPs by failing to comply with policy FW-24
 - f. Violates amended policies CC-4 and -5
 - g. Violates amended policy FW-28
 - h. Violates amended policies AH-1 and -2
 - i. Inconsistent with policies that affect siting of essential public facilities

III.POSITION OF PARTIES

City of Bellevue

The City maintains that the Ordinance is a development regulation that regulates land use activities for group homes and foster family homes in various zoning districts -- not a comprehensive plan. City's Motion, at 2. The Board does not have authority to review a development regulation under requirements that apply only to comprehensive plans. Therefore, those legal issues before the Board that involve the statutory requirements for comprehensive plans cannot, as a matter of law, be before the Board in this case. Accordingly, the City asks the Board to dismiss all claims which apply only to comprehensive plans. City's Motion, at 6.

The City also alleges that, although the Board can review the Ordinance under GMA provisions dealing with development regulations, the Board cannot review the Ordinance under comprehensive plan requirements where the Alliance failed to timely challenge adoption of the City's comprehensive plan. City's Reply, at 3-4.

The City contends that the Alliance's argument that the Ordinance is really an amendment to the City's comprehensive plan is "meritless" and "would set a dangerous precedent... where no comprehensive plan could ever become final." City's Reply, at 2.

Finally, the City maintains that the Board cannot review the Ordinance for consistency with the King County County-wide Planning Policies since CPPs establish the framework for adopting comprehensive plans, not for adopting implementing development regulations. City's Motion, at 6, and City's Reply, at 4.

The Alliance

The Alliance contends that the City's interpretation is unreasonable as it would allow the City to accomplish exclusionary goals in its development regulations that it would not be permitted to do in a comprehensive plan. Alliance's Response, at 2. The Alliance maintains that the comprehensive planning process must be viewed in its entirety and that adoption of a comprehensive plan and development regulations are "inextricably intertwined." Bellevue's interpretation, in contrast, "rigidly" separates comprehensive plans from development regulations. Alliance's Response, at 3. Furthermore, the Alliance argues that Bellevue's interpretation of the Act, although it requires development regulations to comply with the GMA's planning goals, allows those regulations to violate or conflict with the mandatory elements of a comprehensive plan. The Alliance claims that if the City's argument is accepted, a city could omit mandatory elements from its comprehensive plan, or include provisions in development regulations that violate those mandatory elements. Alliance's Brief, at 4.

As long as there was no challenge to the comprehensive plan within sixty days, the City of Bellevue would apparently argue that subsequent development regulations would be immune from challenge as long as they were consistent with an admittedly illegal or deficient comprehensive plan. This would apparently be its position even if the development regulation constituted the first specific notice that citizens had of what was contemplated by the more general comprehensive plan. Alliance's Response, at 4-5.

The Alliance alleges that the Act's purposes would be thwarted if a city were permitted to adopt implementing development regulations that are inconsistent with the comprehensive plan that itself does not comply with the GMA.

Turning to specific GMA provisions, the Alliance contends that, because RCW 36.70A.070(2) requires a housing element that identifies sufficient land for housing including group homes, a consistent development regulation must do so as well. Alliance's Response, at 6.

The Alliance points out that RCW 36.70A.200(2) provides that development regulations cannot preclude the siting of essential public facilities. Therefore, the Alliance is entitled to pursue its subsection (2) claim that the Ordinance precludes the siting of group homes. Alternatively, the Alliance alleges that because the City's comprehensive plan did not address the siting of essential public facilities, by doing so in the Ordinance for the first time, the City in effect amended its comprehensive plan. Alliance's Response, at 7.

Finally, the Alliance interprets the King County CPPs as requiring the City to adopt development regulations consistent with the CPPs and argues that the City is estopped from repudiating the applicability of the CPPs that it ratified. Alliance's Response, at 8.

IV. DISCUSSION

A. GMA Provisions

Before turning to the GMA provisions specified in the legal issues, the Board must determine whether the Ordinance is a comprehensive plan or a development regulation. A "comprehensive land use plan," "comprehensive plan," or "plan" means:

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

In contrast, "development regulations" are:

... any controls placed on development or land use activities by a county or city, including, but not limited to, zoning ordinances, official controls, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances. RCW 36.70A.030(8).

The Board agrees with the City for several reasons that the Ordinance is clearly a development regulation. First, the description paragraph of the Ordinance focuses on group homes and foster family homes only. In contrast, a comprehensive plan must address a much wider array of topics. *See* RCW 36.70A.070. Second, the findings paragraphs of the Ordinance recite the history of the adoption of the City's comprehensive plan on December 6, 1993 and indicate:

WHEREAS, the purpose of the regulations herein contained is to implement the comprehensive Plan of the City as it relates to Group Homes; Exhibit 1 to City's Motion, at 1.

Third, and most importantly, the Ordinance (Exhibit 1 to City's Motion) constitutes specific controls placed on group homes. For example, with certain exceptions, group homes may not be established within 1,000 feet in any direction of any other Group Home (Note 2, at 5); a group

home must provide at least two off-street parking stalls (Note 10, at 5); and group care facilities for children are not permitted in any residential district (Note 13, at 6).

RCW 36.70A.070

RCW 36.70A.070,¹²¹ entitled "Comprehensive plans--Mandatory elements," was first enacted when the GMA was adopted in 1990 and has not been subsequently amended. RCW 36.70A.070 sets forth the mandatory requirements for comprehensive plans under the GMA. This section of the Act focuses solely on the contents of and requirements for comprehensive plans. It does not address development regulations.

The Board rejects the Alliance's argument that because RCW 36.70A.070(2)(c) requires jurisdictions to identify "sufficient land for housing" in their comprehensive plans, that their development regulations must also do so. The sufficiency of land supply required by RCW 36.70A.070(2)(c) is a mandate that the city, as a matter of policy, identify sufficient land for this purpose. Development regulations are to then impose controls to assure that the land identified in the plan for housing is available for that purpose. Because development regulations must be consistent with the comprehensive plan, they cannot decrease the land supply available for housing. RCW 36.70A.040(3). *See also West Seattle Defense Fund v. Seattle*, CPSGMHB Case No. 94-3-0016 (1995), at 26-27 for a discussion of consistency requirements.

RCW 36.70A.100

RCW 36.70A.100, "Comprehensive plans--Must be coordinated," provides:

The comprehensive plan of each county or city that is adopted pursuant to RCW 36.70A.040 shall be coordinated with, and consistent with, the comprehensive plans adopted pursuant to RCW 36.70A.040 of other counties or cities with which the county or city has, in part, common borders or related regional issues. (emphasis added).

Clearly, RCW 36.70A.100 involves comprehensive plans only and not development regulations that implement those plans.

RCW 36.70A.200

RCW 36.70A.200, "Siting of essential public facilities," states:

(1) The comprehensive plan of each county and city that is planning under this chapter shall include a process for identifying and siting essential public facilities. Essential public facilities include those facilities that are typically difficult to site, such as airports, state education facilities and state or regional transportation facilities, state and local correctional facilities, solid waste handling facilities, and in-patient facilities including substance abuse facilities, mental health facilities, and group homes.

(2) The office of financial management shall maintain a list of those essential state public facilities that are required or likely to be built within the next six years. The office of financial management may at any time add facilities to the list. No local comprehensive plan or development regulation may preclude the siting of essential public facilities.

Clearly, subsection (1) of RCW 36.70A.200 pertains to comprehensive plans only. Jurisdictions must include a process for identifying and siting essential public facilities within their comprehensive plans. Such a requirement is consistent with the general nature of comprehensive

plans. Just as clearly, no comprehensive plan or development regulation may preclude the siting of essential public facilities. Therefore, the Board holds that subsection (1) of RCW 36.70A.200 does not apply to development regulations while subsection (2) does.

RCW 36.70A.210

RCW 36.70A.210 sets forth the requirements for county-wide planning policies. Subsection (1)^[3] clearly indicates that the sole purpose of county-wide planning policies is to create a framework to ensure that the comprehensive plans of the county and its cities are consistent. This section of the Act does not apply to development regulations that implement comprehensive plans.

Discussion of the Alliance's General Contentions

The Board will address several of the Alliance's other allegations because of the seriousness of these contentions. The Board rejects the Alliance's claim that one cannot challenge a comprehensive plan "if the development regulation constituted the first specific notice that citizens had of what was contemplated by the more general comprehensive plan." Alliance's Response, at 4-5. The Board is charged with determining whether local jurisdictions have complied with "the requirements" of the Act. *See* RCW 36.70A.280(1), RCW 36.70A.290(2) and RCW 36.70A.300(1). Although the Act contains few specific procedural requirements, the ones listed are mandatory. *See Twin Falls*, Order on Dispositive Motions, at 10.

One of the Act's mandatory procedural requirements is that cities and counties must publish notice of adoption. RCW 36.70A.290(2). If, as the Alliance seemingly claims, the City failed to publish notice of adoption of its comprehensive plan, then the City has not complied with the Act's requirements. If a petition for review were before the Board alleging a failure to publish notice of adoption, the Board would hold that a GMA comprehensive plan had yet to be adopted. The Alliance has not filed a petition for review making such an allegation, even though it suggests that Bellevue's comprehensive plan is "admittedly illegal or deficient." Alliance's Response, at 5. Therefore, the Board presumes that the City fully complied with the Act's procedural requirements for adopting comprehensive plans.

Furthermore, assuming that the City did indeed meet the Act's procedural requirements, since the City's comprehensive plan was not challenged in a timely manner, the presumption of validity that the Act places upon the adopted comprehensive plan (*see* RCW 36.70A.320) becomes irrefutable. *Twin Falls*, Final Decision and Order, at 55.

Accordingly, the Board agrees that once procedural compliance has been met, a challenge of a comprehensive plan's substantive compliance with the requirements of the Act must be made within sixty days of publication of notice of adoption or else the comprehensive plan in question does indeed become, as the Alliance suggested, "immune" from challenge to this Board.^[4] The legislature imposed a short statute of limitations (60 days) so that a degree of certainty would exist under the GMA. Likewise, the legislature did not grant the growth management hearings boards the authority to review every comprehensive plan and development regulation adopted pursuant to the GMA. Instead, the Board examines only those that are challenged by the timely filing of a petition for review. Thus, the clear message is that challenges to comprehensive plans must be timely made because one cannot later challenge the policy plan by contesting the

implementing development regulations.

The fact that the City's comprehensive plan went unchallenged does not, however, remove the Act's requirement that development regulations that implement a comprehensive plan must be consistent with and conform to that adopted comprehensive plan. *See* RCW 36.70A.040(3)(d) and RCW 36.70A.120. Those requirements exist whether the comprehensive plan was challenged or not.

The Board agrees with the Alliance's contention that a city or county might fail to include a mandatory element in its comprehensive plan. If such inaction was challenged by the filing of a timely petition for review, the Board would conclude that such an incomplete comprehensive plan does not comply with the GMA's requirements. As the Board has previously held:

... 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. *West Seattle Defense Fund v. Seattle*, CPSGMHB Case No. 94-3-0016 (1995), at 12.

Thus, the Act's short statute of limitations places a heavy burden on potential petitioners to promptly review adopted GMA documents and file petitions for review if they conclude the adopted enactment does not comply with the Act's requirements.

Finally, the Board rejects the Alliance's allegation that a city or county's development regulations can conflict with the mandatory elements of its comprehensive plan. As discussed above, RCW 36.70A.040(3)(d) mandates that development regulations be consistent with and implement comprehensive plans.

B. Procedural Criteria Provisions

RCW 36.70A.190(4)(b) requires the Washington State Department of Community, Trade and Economic Development (**CTED**) to adopt by rule "procedural criteria" to assist counties and cities in adopting comprehensive plans and development regulations that meet the goals and requirements of the GMA. Consequently, Chapter 365-195 WAC, entitled "Growth Management Act -- Procedural criteria for adopting comprehensive plans and development regulations" (the **Procedural Criteria**), was adopted in 1992. The Board is required to "consider" the Procedural Criteria when making its determination whether a comprehensive plan or development regulation complies with the Act. RCW 36.70A.320. ⁵¹

WAC 365-195-030(1) indicates that the Procedural Criteria are a set of "recommendations" that list "possible choices" jurisdictions can make in attempting to comply with the Act. However, compliance with the Procedural Criteria is not a prerequisite to a Board finding of compliance with the GMA. WAC 365-195-030(3). Part Three of the Procedural Criteria is labeled "Features of the Comprehensive Plan;" it is codified at WAC 365-195-300 through -345. Part Eight, captioned "Development Regulations," is codified at WAC 365-195-800 through -840. With this background in mind, the Board reviews the specific Procedural Criteria provisions with which the Alliance claims the Ordinance does not comply.

WAC 365-195-070(7)

WAC 365-195-070 is entitled "Interpretations." Subsection (7) is captioned "Consistency" and discusses nothing but internal consistency in a comprehensive plan or external consistency between comprehensive plans of other jurisdictions.

WAC 365-195-310(1)(c) and (d)

WAC 365-195-310 is entitled "Housing element." Subsection (1), "Requirements," sets forth the Act's mandatory requirements for the housing element of a comprehensive plan as listed in RCW 36.70A.070(2).^[6]

WAC 365-195-340(1)(a) and (c)

WAC 365-195-340 is labeled "Siting essential public facilities." Subsection (1), "Requirements," lists the Act's mandatory requirements for a comprehensive plan on this topic as set forth at RCW 36.70A.200. WAC 365-195-340(1)(c) repeats the last sentence of RCW 36.70A.200 which indicates that development regulations may not preclude the siting of essential public facilities.

WAC 365-195-520

Part Five of the Procedural Criteria involves "Consistency." WAC 365-195-520, captioned "Interjurisdictional consistency," provides as follows:

Adopted county-wide planning policies are designed to ensure that city and county comprehensive plans are consistent. Each local comprehensive plan should demonstrate that such policies have been followed in its development.

The Board observes that the Procedural Criteria provisions cited by the Alliance deal with comprehensive plans, but for WAC 365-195-340(1)(c) which repeats the Act's requirement that development regulations not preclude the siting of essential public facilities. The Board further notes that the Alliance has listed only those portions of the cited Procedural Criteria that recite the Act's "requirements." These sections simply repeat the Act's language.

However, even if the substantive portion (i.e., provisions under the heading "recommendations for meeting requirements" [*see* WAC 365-195-040(1)]) of the Procedural Criteria in question did address adoption of development regulations, the City would not have to comply with them since they are simply a list of recommendations. *See* WAC 365-195-030(1). Therefore, the City's Ordinance, a development regulation, need not comply with the specific Procedural Criteria cited above or any Procedural Criteria generally.^[7] Obviously, all jurisdictions however, must comply with the Act's requirements which also happen to be set forth in the Procedural Criteria.

C. King County County-wide Planning Policies Provisions

As indicated above, county-wide planning policies are to be used solely as a framework for the adoption of comprehensive plans. One of the Board's earliest decisions dealt at length with the purpose, nature and effect of CPPs. *See Snoqualmie v. King County*, CPSGPHB Case No. 92-3-004 (1993). There, the Board recognized that the phrase:

... "land use powers of cities" is not defined by the Act. The Board holds that this phrase refers to "development regulations" and other controls such as right-of-way or street vacation, annexation and environmental review procedures. The mechanics and lawful

extent to which such land use powers may be wielded by local governments is established and limited by a variety of statutes, including but not limited to the State Environmental Policy Act (Chapter 43.21C RCW), the Shoreline Management Act (Chapter 90.58 RCW), the Public Disclosure Act (Title 42 RCW) and the annexation and zoning authority derived from Titles 35 and 35A, RCW.

The Board is persuaded that nothing in the Act can alter the fundamental authority or mechanics that derive from statutes that authorize and limit the land use powers of cities.... Further, the Board observes that the CPPs provide substantive direction not to development regulations, but rather to the comprehensive plans of cities and counties. Thus, the consistency required by RCW 36.70A.100 and RCW 36.70A.210 is an *external* consistency between comprehensive plans. The CPPs do NOT speak directly to the implementing land use regulations of cities and counties. Thus, the Board concludes that the requirement for consistency in RCW 36.70A.100 and .210 does not require an alteration to the land use powers of cities. *Snoqualmie*, at 16 (emphasis in original).

The Alliance contends that Policy FW-1, Step 3(b), of the King County CPPs (Phase II) requires the Ordinance to be consistent with the CPPs. Policy FW-1 states as follows:

FW-1. Countywide growth management is a multi-step process:

...

STEP 3: The Countywide Planning Policies shall be implemented as follows:

- a. All jurisdictions shall make the decisions required to implement the Countywide Planning Policies into their respective comprehensive plans.
- b. All jurisdictions shall make the decisions required to implement the Countywide Planning Policies and their respective comprehensive plans through development regulations.... Exhibit 1 to City's Reply.

The Board has not reviewed Phase II of the King County CPPs. As indicated above, because these revisions went unchallenged, they became irrefutably valid. The fact that the unchallenged King County CPPs are valid means that they will be interpreted to comply with the GMA. In its *Snoqualmie* decision, the Board noted that:

The CPPs may be very general or very detailed. Some CPPs may be written as goal or value statements. Others may be written as measurable objectives or targets. The more abstract CPPs are, the more room will be left for interpretation. This may be a desired and appropriate choice; however, it comes with the consequence that inconsistency will be more difficult to prove. On the other hand, CPPs that include numeric standards or otherwise objective benchmarks, such as jobs or housing targets, are more measurable and achievable and thus more readily a cause of action for alleged non-compliance.

Likewise, CPPs that are written in a clear and cogent fashion, with key terms and phrases defined, will be less open to varying interpretations. *Snoqualmie*, at 13.

Step 3(b) of FW-1 is not clearly written, and is open to varying interpretations. The Board interprets it as meaning that comprehensive plans must be consistent with adopted CPPs and, in turn, development regulations must be consistent with the comprehensive plans that they

implement. The Board does not interpret Step 3(b) as meaning that implementing development regulations must be directly consistent with CPPs. Such an interpretation would violate the Act's mandate that nothing in RCW 36.70A.210 alters the land use powers of cities.

V. CONCLUSION

Development regulations must be consistent with and conform to the adopted comprehensive plan they are intended to implement as required by RCW 36.70A.040(3)(d) and RCW 36.70A.120. A development regulation that implements a comprehensive plan need not comply with those requirements of the Act that specifically focus on comprehensive plans, such as RCW 36.70A.070, RCW 36.70A.100, RCW 36.70A.200(1) and RCW 36.70A.210. However, development regulations must comply with the requirements of RCW 36.70A.200(2).¹⁸¹ Local jurisdictions are not required to comply with the recommendations set forth in the Procedural Criteria at Chapter 365-195 WAC.

A local jurisdiction's comprehensive plan must be consistent with the county-wide planning policies. Its development regulations that implement the comprehensive plan must be consistent with that plan. Those implementing development regulations are not required to be consistent with the adopted county-wide planning policies since CPPs cannot alter the land use powers of cities. Therefore, the City's Ordinance, a development regulation:

- must be consistent with the goals of the Act and the City's adopted comprehensive plan;
- need not comply with the GMA's requirements for comprehensive plans at RCW 36.70A.070, .100, and .200(1) or the Act's requirements for county-wide planning policies at RCW 36.70A.210;
- need not comply with the Procedural Criteria; and
- need not be consistent with the King County CPPs.

However, the Ordinance must comply with the requirements of RCW 36.70A.200(2).

VI. ORDER

Having reviewed the above-referenced documents, having considered the parties' arguments, and having deliberated on the matter, it is ORDERED that:

- 1.) The City's Motion is **fully granted** regarding Legal Issues Nos. 3, 4, 6, 7, and 11. Those legal issues are **dismissed with prejudice**.
- 2.) The City's Motion is **partially granted** regarding Legal Issue No. 5. That portion of Legal Issue No. 5 that addresses RCW 36.70A.200(1) is **dismissed with prejudice**. However, that portion of the City's Motion dealing with Legal Issue No. 5 as it relates to RCW 36.70A.200(2) is **denied**.

So ordered this 17th day of May, 1995.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

M. Peter Philley

Joseph W. Tovar, AICP

Chris Smith Towne, Presiding Officer

^[1]The Board's Rules of Practice and Procedure do not authorize motions for summary judgment. Instead, dispositive motions, such as motions to dismiss for lack of jurisdiction, are anticipated. Dispositive motions are similar, but not identical, to a motion for summary judgment. See WAC 242-02-530(4); Amended Prehearing Order, ¶2 at 2; and *Twin Falls v. Snohomish County*, CPSGPHB Case No. 93-3-0003 (1993), Order on Dispositive Motions, at 19-21. The Board treats the City's Motion as a dispositive motion.

^[2]The preamble portion of 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....(emphasis added).

^[3]RCW 36.70A.210(1) provides:

(1) The legislature recognizes that counties are regional governments within their boundaries, and cities are primary providers of urban governmental services within urban growth areas. For the purposes of this section, a "county-wide planning policy" is a written policy statement or statements used solely for establishing a county-wide framework from which county and city comprehensive plans are developed and adopted pursuant to this chapter. This framework shall ensure that city and county comprehensive plans are consistent as required in RCW 36.70A.100. Nothing in this section shall be construed to alter the land-use powers of cities.(emphasis added).

^[4]Constitutional challenges to an adopted comprehensive plan can be brought before a superior court at any time.

^[5]The Act does not expressly require cities or counties to consider the Procedural Criteria.

^[6]WAC 365-195-040(1) indicates that the Procedural Criteria are arranged so that the Act's mandatory requirements are listed under headings labeled "requirements."

^[7]The fact that a city or county is not required to comply with the Procedural Criteria does not preclude a petitioner from citing to the Procedural Criteria's recommendations.

^[8]Development regulations must also substantively comply with the Act's planning goals at RCW 36.70A.020 (see also *Aagaard v. Bothell*, CPSGMHB Case No. 94-3-0011 (1995), at 6). However, the Alliance did not refer to that section of the GMA in Legal Issues Nos. 3, 4, 5, 6, 7, and 11.