

**BEFORE THE WESTERN WASHINGTON GROWTH  
MANAGEMENT HEARINGS BOARD**

DONALD E. BERSCHAUER,

Petitioner,

vs.

CITY OF TUMWATER, a municipal corporation,

Respondent,

and

CITIZENS OF THE SAPP ROAD LAND USE  
PLAN OVERLAY AREA

Intervenors

No. 94-02-0002

FINAL  
DECISION

**PROCEDURAL HISTORY**

After two years of work by the City of Tumwater's (City) staff and Land Use and Housing Committee of the Tumwater Planning Commission, a draft of the Land Use Plan (Plan) was presented to the Planning Commission in February 1993. The land use plan element of the comprehensive plan was composed of land use designations and accompanying text for seven separate neighborhoods within the City. Each neighborhood constituted a sub-area and chapter of the Land Use Plan. The original draft included density designations for the individual sub-areas throughout the City based on the goals, policies and objectives included in the Plan. After meetings and public hearings the Planning Commission sent a proposed plan to the City Council. This plan included a recommendation that all 1 DU/Acre designations in the city be eliminated, as inconsistent with the goals, policies and objectives of the Plan, the Thurston County-Wide Planning Policies (CPPs) and the Growth Management Act (GMA or Act).

On September 13, 1993, the City Council held a public hearing on the proposed plan. Several

residents of the Sapp Road, Antsen Road and Chaparral Road area objected to the designation of their area as single-family residential low density (4-7 DU/Acre). The City Council responded by appointing a Sapp Road Citizens Advisory Committee (CAC) to review the land use designation for the Sapp Road area. The Committee's task was to make a recommendation to the Planning Commission regarding the future land use of the area. The CAC met three times on October 13, October 27 and November 10, 1993. The committee recommended that a Sapp Road Land Use Plan Overlay (SRLUPO) area be drawn with a designated single-family low density of 1 DU/Acre and 2-4 DU/Acre.

The Planning Commission held a public hearing on the CAC's density level proposal on November 23, 1993 and recommended it to the City Council.

On December 7, 1993 the City Council held a public hearing on the Planning Commission's Sapp Road recommendation and the rest of the Land Use Plan as modified by the General Government Committee of the City Council. These review processes had been handled concurrently so there was no review of the Sapp Road recommendation by the General Government Committee. That evening the City Council passed Resolution #480 adopting the SRLUPO area recommendation in addition to the overall Land Use Plan.

On February 3, 1994, Donald E. Berschauer filed a petition for review with the Western Washington Growth Management Hearings Board (Board). The petition challenged the adoption of the Sapp Road Land Use Plan Overlay area as part of the Tumwater Land Use Plan.

On March 10, 1994, we received a motion to file an amicus curiae brief by the Building Industry Association of Washington. On March 11, 1994, we received a motion for intervenor status by Citizens of the Sapp Road Land Use Plan Overlay Area. We granted these motions on March 16, 1993.

A prehearing conference was held on March 16, 1994 and a formal prehearing order was entered March 25, 1994. The hearing on the merits was held on May 25, 1994. The record consisted of documents and no live testimony was presented. After the hearing, the presiding officer requested proposed decisions by the parties. These were received on June 13, 1994 and have

been used in part in this decision and final order.

### METHOD OF REVIEW

We held in *Clark County Natural Resources Council v. Clark County*, WWGPHB #92-2-0001, that the language of RCW 36.70A.280(1)(a) requiring compliance with the "requirements" of the Act, in light of .290(2) requiring compliance with the "goals and requirements" of the Act, meant that we were to consider both the "goals and requirements" when reviewing development regulations. Under the language of RCW 36.70A.020 we extend that holding to include review of comprehensive plans.

A city's plan is "presumed valid upon adoption". RCW 36.70A.320. WAC 365-195-050 gives some guidance on the presumption of validity.

**WAC 365-195-050 Presumption of validity.** Comprehensive plans and development regulations adopted under the act are presumed valid upon adoption. Nevertheless, jurisdictions whose plans are challenged will be obliged to furnish a record for the review process. Although the presumption of validity should discourage meritless appeals, if the presumption is overcome in any case, the county or city will be required to demonstrate compliance with the act. Such a demonstration will be aided by a record which documents deliberations, shows data relied upon, and explains how conclusions were reached.

Petitioner has the burden of proving by a preponderance of the evidence that a plan does not comply with the Act. RCW 36.70A.320.

The initial burden of persuasion is met when a petitioner presents sufficient evidence which, standing alone, would overcome the presumption of validity. The level of that initial evidence is by a preponderance. Once that level has been reached the burden of producing evidence to rebut the initial showing does shift to the respondents. *9 Wigmore Evidence § 2489* (Chadbourn rev.1981). Because our review is "on the record", RCW 36.70A.290(4), that rebuttal evidence must be contained in the record absent the rare instance of consideration of supplemental evidence.

Here the petitioner has shown a number of inconsistencies between the otherwise consistent

Comprehensive Plan and the Sapp Road Overlay Area. Thus, we look to the record to see if it contains the type of analysis and consideration necessary to overcome the initial showing by petitioner.

We analyze Petitioner's assertions of non-compliance in the context of the following framework.

- (1) Is the plan the result of a considered application of appropriate goals and requirements of the Act?
- (2) Did the process comply with the public participation requirements of the Act?
- (3) Was the deliberation and decision-making process reasoned?
  - (a) Is the plan supported by reasoned choices based upon appropriate factors actually considered as contained in the record?
  - (b) Were inappropriate factors avoided?
- (4) Does the plan fall within the discretion granted to the decision-maker to choose from a range of reasonable options?

## DISCUSSION

A threshold determination for us is whether a sub-area planning component of a land use plan must also comply with the goals and requirements of the Act. The GMA does not prescribe planning methodologies nor distinguish between the land use plan as a whole or its component parts. The GMA requires that a local government adopt a comprehensive plan<sup>[1]</sup>, the plan be guided by the GMA planning goals<sup>[2]</sup>, be guided by county-wide planning policies<sup>[3]</sup>, be based on objectives, principles and standards<sup>[4]</sup>, and be an internally consistent document.<sup>[5]</sup> Petitioner contends that the sub-area components as well as the overall land use plan must comply with the requirements and goals of the GMA. He argues that otherwise the planning process is open to being driven by political expediency and subject to unpredictable, inconsistent and unfair land use decisions. Petitioner's contentions are made within a context where a

different planning process was commenced after preparation and initial consideration of a proposed land use plan. He contends that this new process proceeded without compliance with GMA procedures or proper analysis to determine if it complied with GMA standards.

The City of Tumwater argues that the land use plan should be reviewed only in its entirety, without focus on its sub-area parts, to determine whether the plan complies with the goals and requirements of the GMA. The City believes that it is possible to show overall city-wide compliance with the GMA even if the goals and requirements of the GMA may not have been considered at each sub-area level. The City further contends that the goals of RCW 36.70A.020 were considered by the council in making their Sapp Road area decision. The City finally contends that it has the discretion to designate land use within a sub-area component as it sees fit, as long as the overall plan is shown to have met the requirements of the Act.

If we adopted the City's view, a local government would be free to avoid applying the requirements and goals of the Act to any specific geographic area it chooses as long as the overall plan can be said to comply with the requirements of the GMA. Particularly in the context before us where a separate process was developed for this one area lacking the same level of analysis as for all other sections of the City, such a position is not supportable and we decline to adopt it. While the GMA may not distinguish between the overall land use plan and its component parts, the Act is clear on what it does require. The GMA requires that the planning goals of the Act be considered and the land use plan be based on objectives, principles and standards. If a city or county chooses to build its land use plan by using a sub-area planning methodology, then it is only logical to interpret the GMA to require each of the sub-area planning components also be based on the same planning goals, county-wide policies, objectives, principles and standards for which the overall plan will be judged. Otherwise a city or county would have an unrestricted license to subvert the requirements of the GMA anytime opposition became too intense. The sub-area planning mechanism could become a handy device to politicize the decision-making process. Such decision-making is contrary to the basic thrust of the GMA which is to make decisions based on uniform policies and standards. RCW 36.70A.010.

The GMA requires that the plan shall be an internally consistent document, RCW 36.70A.070. If a government is free to pick and choose where within its boundaries it will consider the goals and

requirements of the Act, how can a plan ever be said to be an internally consistent document? Some areas of the plan would be based on the objectives, principles and standards adopted by the jurisdiction and other areas would not. We believe the legislature's insistence on internal consistency should be interpreted to mean that the Act requires that each of the jurisdiction's sub-area plans must comply with the goals and requirements of the Act and be consistent with each other.

This does not mean that all sub-areas must end up looking the same. It does mean that all sub-areas have been designed considering the same goals, objectives, principles, and standards. Furthermore, the record should show that in all sub-areas the same goals, objectives, principles and standards have been considered and balanced in a fair and open process. If, toward the end of the process, one sub-area is singled out and put through a very different planning process using lesser objectives, principles, or standards than those stated in the body of the plan, the original plan criteria should be reexamined to reflect the inclusion of these different sub-area standards and all other sub-areas should be reviewed using this redefined set of objectives, principles and standards. This would be essential to ensure fairness and internal consistency. We therefore conclude that the Sapp Road Land Use Plan Overlay Area must comply with requirements and goals of the Act, be consistent with county-wide planning policies and be consistent with the elements of the City's own comprehensive plan.

Tumwater did an excellent job of complying with the public participation requirements of the Act. The City encouraged citizen participation, considered their input, and responded to their comments. The Citizens of the Sapp Road Area also did an excellent job of educating their elected officials about their concerns.

Creating a citizens advisory committee could have been a good idea. However, the City had an obligation to provide the CAC with the parameters required by the GMA, CPPs, and their own proposed land use plan within which their recommendation must fall. The City Council also had the obligation themselves to access all these factors, not only the advice and feelings of a CAC. In this case there was special consideration given to one group of citizens that was not given to citizens in other neighborhoods.

We now proceed to discuss the legal issues set out in our prehearing order.

**1a. What discretion does the City have in allocating its projected growth to a variety of densities within its boundaries and still be in compliance with the planning goals set forth in RCW 36.70A.021(1) and (2)?**

The City contends that it has the discretion under the GMA to allocate a mix of densities within its borders to accommodate growth. Petitioner does not dispute the City's discretion but argues that in doing so the City must be guided by the requirements of the GMA, even at the sub-area level of decision-making.

We conclude that the City has discretion to allocate its population among various density designations, but in doing so the City must conduct a proper analysis and comply with the goals and requirements of the Act.

**1b. Is the City's designation of the Sapp Road Land Use Plan Overlay Area as residential 1 DU/Acre and 2-4 DU/Acre consistent with goals 1,2,4,6,10, & 12 of the GMA set forth in RCW 30.70A.020?**

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Chapter 1 of the City's Land Use Plan describes how the City has complied with the goals of the GMA. However, this Chapter was written prior to the formation of the CAC and subsequent adoption of their recommended land use designations for the SRLUPO area. These SRLUPO recommendations were adopted separately from the Land Use Plan and did not have the careful scrutiny of the General Government Committee for consistency with the rest of the Plan. It was incumbent upon the City to have considered the goals of the GMA in its deliberation of the land use designation for the SRLUPO area. In studying the record we found that the Sapp Road decision-making process appeared to be so focused on maintaining the area lifestyle that attempts to consider other goals were perfunctorily discounted and disregarded.

Since the record lacks evidence of analysis or weighing of goals by the City in the SRLUPO decision-making process we look to see if the land use designations on their face comply with the GMA goals. Petitioner has shown that the adopted land use designations

for the SRLUPO area do not comply with the GMA goals. The low density designations do not encourage development in an area that has been identified by the Capital Facilities Plan for the provision of urban services (Goal 1); the resulting land use pattern will be sprawling, ultra low-density development (Goal 2); 12 percent of the vacant land available for residential housing development will be consumed by less than 100 large lots (Goal 4); because at these densities the area is likely to develop on septic system rather than sanitary sewer there is a distinct likelihood that the water quality of Percival Creek will be degraded and the potential for actually protecting and preserving this very special area will be lost (Goal 10).

**2. Is the City's designation of the Sapp Road Land Use Plan Overlay Area as residential 1 DU/Acre and 2-4 DU/Acre consistent with Thurston County-Wide Planning Policies 2.1; 5.1; 7.5; 9.1(a)(b)?**

The GMA requires that each county that plans under the Act adopt county-wide planning policies in cooperation with the cities located within the county. The County-Wide Planning Policies of Thurston County were adopted on September 8, 1992. The expressed purpose of the policies was to "frame how the comprehensive plans of Thurston County and the seven cities and towns will be developed and coordinated."

The Petitioner contends that the density designation for the Sapp Road area is inconsistent with the county-wide policies of promoting contiguous and orderly development of urban services, minimizing infrastructure costs, encouraging affordable housing and protecting environmental quality. The City takes the position that because the Land Use Plan contains text and policies which address the subject areas of the CPPs, it has complied with the requirements of GMA.

We conclude that the responsibility of the City in complying with the CPPs does not stop with the incorporation of the policies into the comprehensive plan. Consistency is achieved only by implementing the policies. The analysis for compliance with the CPPs was done before the major changes in the Sapp Road area land use designation and a similar analysis or discussion was not part of that decision-making process. We conclude that the low-density designations for the SRLUPO area do not comply with the CPPs for orderly and cost effective development of urban services, affordable housing or environmental quality.

**3. Is the City's designation of the Sapp Road Land Use Plan Overlay Area as residential 1 DU/Acre and 2-4 DU/Acre consistent with goals 2,3,4, and 5 of the City's Land Use Plan and its Related Policies and Objectives?**

The City's Land Use Plan is composed of land use designations and accompanying text for seven neighborhoods within the City. The SRLUPO area was originally a part of the Tumwater Hill neighborhood but the city council separated it from that neighborhood and made it a special overlay district. Thus, for the purpose of this analysis we treat the SRLUPO area as though it were a separate neighborhood.

Chapter 3 of the Land Use Plan establishes the goals, policies and objectives for the City of Tumwater, the stated purposes of which are to establish direction for the future growth of the City; to ensure coordination with separate comprehensive plan elements, regional plans and the CPPs; and to be used in the determination of land use designations. The Petitioner contends that the plan specifically provides that the purpose of land use designations is to implement and achieve these goals, policies and objectives and that the land use designations for the SRLUPO area fail to do that.

The GMA requires that the comprehensive plan be an internally consistent document. The GMA does not define what it means by the term "internally consistent." However, WAC 365-195-210 defines the term as follows:

"Consistency" means that no feature of a plan or regulation is incompatible with any other feature of a plan or regulation. Consistency is indicative of a capacity for orderly integration or operation with other elements in a system.

WAC 36-195-500 also discusses internal consistency:

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 impact of developments occur (concurrency).

Applying the definition and terminology above to the situation here requires that the goals, policies and objectives of the Land Use Plan must be integrated with the density designation for each of the neighborhoods and the SRLUPO area. We conclude that any other interpretation of the requirements of RCW 36.70A.070 would be illogical, lead to inconsistent results, and undermine the intent of the GMA. Therefore, to achieve consistency, the land use designation for the SRLUPO area must be the result of the application of the above goals, policies and objectives to the decision-making process. A mere "consideration" of the goals, policies and objectives in the cursory manner given to such considerations in the past is not enough. Where facial inconsistencies appear there must be some evidence in the record of how the decision-makers found these land use designations to be based on and consistent with the goals, policies and objectives of their plan.

Our four question analytical framework is in harmony with this interpretation of the GMA. Applying question 3 of that framework here, we must determine whether the City's adoption of the SRLUPO area designation was the result of a "considered application" of the requirements of the Act; whether the deliberation and decision-making process was reasoned; whether the land use designations are supported by reasoned choice based upon appropriate factors actually considered as contained in the record; and whether inappropriate factors were avoided. We conclude that upon applying these standards the density designations for the SRLUPO area cannot be sustained.

The record of the three CAC meetings lacked discussion or analysis of the goals, policies and objectives of the Land Use Plan. This may be understandable and acceptable given the nature of a citizens advisory committee. The record of the Planning Commission meeting of November 23, 1993 included no serious discussion nor analysis supporting their new recommendation; one that was dramatically different from their previous recommendation formed after comprehensive discussion and analysis. Likewise, the City Council meeting of December 7, 1993 lacked anything more than a perfunctory analysis or discussion of whether their decision was consistent

with the goals, policies and objectives of their Land Use Plan.

The words "considered application" and "actually considered" in formulating our analytical framework means that more than a superficial consideration must be given. There must be some application of the appropriate requirements and factors and there must be evidence in the record that such application was made and actually considered. The record here shows that this standard has not been met.

Chapter 2 of the City's Land Use Plan established criteria used in conjunction with the goals, policies and objectives of the Plan to identify and guide the land use designations for the neighborhoods. The City's Land Use Plan was drafted by the Planning Commission based on the concept that a land use designation with a density of one dwelling unit per acre was obsolete. Record Item 21. Nowhere is there found in this chapter criteria for or a description of a land use designation for Single-Family Low Density 1 DU/Acre or 2-4 DU/Acre. Nowhere within the City, except the Sapp Road Land Use Plan Overlay area, has there been such designations applied. In other words, it was not until the Sapp Road CAC reviewed the land use recommendation originally proposed by the Planning Commission that such low density designations were created.

A stated purpose of the City's goals, policies, and objectives is to ensure coordination between the elements of the comprehensive plan. Land Use Plan at 41. The Petitioner contends that lack of consideration of these goals, policies and objectives in deciding the land use designations for the SRLUPO area has resulted in the designations being inconsistent with the other elements of the comprehensive plan. Notably, the petitioner alleges the land use designations are inconsistent with the Plan's design to accommodate the City's allocated population increase, and the housing and capital facilities elements of the plan.

The City is responsible for the accommodation of 6,221 new residents within the city limits by the year 2013. This figure was used in determining the land use designations recommended for the neighborhood areas. A great deal of calculation and analysis regarding land supply and density rates went into determination of the Land Use Plan proposed to the City Council on September 13, 1993. We conclude after a review of the record that no such analysis was used in

the decision to change the land use recommendation of the SRLUPO area to a lower density.

The SRLUPO area contains 79 buildable acres which represents 12% of the total supply of vacant buildable residential land within the City. This area could accommodate a range of 305-542 housing units at the original proposed density of 4-7 DU/Acre. Under the adopted lower density designation as few as 68 housing units could be built. The record shows that the answer given to the question of where would the displaced housing units be provided was that the housing units could be absorbed into the mixed use designation. Such a determination is inconsistent with Chapter 4 of the Land Use Plan which provides:

Although the mixed use designation includes residential uses, these areas were not used in calculations for population accommodation as it is expected that the densities desired would be difficult to reach in the near term and the market environment for mixed use development is uncertain at this time.

This record does not contain any analysis of the effect of the changed density on surrounding neighborhoods, other than general statement by staff that the population can be accommodated. We therefore conclude that the density designations for the SRLUPO area are not consistent with the Land Use Plan.

The SRLUPO decision also conflicts with other elements of the comprehensive plan. The record shows that there was no analysis or discussion of how the recommended lower density designations would affect the provisions of the Housing Plan. There was no discussion of the housing goals, policies and objectives. Our review shows that the designations of the SRLUPO area are contrary to most, if not all, of the housing goals. As such they conflict with the Housing Plan section of the Comprehensive Plan.

One of the mandatory elements of the comprehensive plan is a capital facilities plan. RCW 36.70A.070(3). The capital facilities plan must contain, among other things, a six-year financing plan and cities must ensure that the land use plan, capital facilities plan, and financing plan are coordinated and consistent. RCW 36.70A.070(3)(d)(e).

The City has adopted a capital facilities plan covering the years 1994-1999. The petitioner contends that the land use designations adopted for the SRLUPO area are inconsistent with the

provisions of the City's Capital Facilities Plan. The City argues that its low-density designation for the SRLUPO area is proper because any capital facilities planned for the area are regional in scope and are several years away. Therefore, the City contends that a higher density designation would be premature and would improperly give control of the provision of infrastructure to developers.

The SRLUPO area is a pocket of largely undeveloped land surrounded by land either developed at urban densities or identified in the Land Use Plan as urban densities. Surrounding residential densities range from 4-7 DU/Acre to 9-15 DU/Acre. The current zoning for the area is 1 DU/Acre. The Capital Facilities Plan identifies a number of capital improvements for the area to be undertaken within the six-year planning period. Most notable are the following improvements:

Crosby Boulevard Improvements. A joint project between Tumwater, Olympia and the Washington State Department of Transportation. The project is to widen Crosby Boulevard and to provide direct access to SR 101. Crosby Boulevard will provide the main access to the Sapp Road Land Use Plan Overlay Area from the north. The project is scheduled to begin in 1994.

Rural Road Improvements. A project to improve Rural Road from Sapp Road to Trospen Road. This road is the main access to the Sapp Road Land Use Plan Overlay Area from the south. The project is scheduled to begin in 1999.

Sapp Road Water Main Extension. This project will install a 12" water main to the Sapp Road Land Use Plan Overlay Area. The project is scheduled to begin in 1997.

Percival Creek Stormwater Project. This project is to construct a regional stormwater collection system in the Percival Creek basin. The stormwater system will serve the Sapp Road Land Use Plan Overlay Area and is scheduled to begin in 1994.

Percival Creek Interceptor. This project will provide sanitary sewers to the Sapp Road Land Use Plan Overlay Area. The project is scheduled to begin in 1999.

The Petitioner points out that the City's Land Use Plan supposedly recognizes the importance of the provision of such urban services as those described above to land use planning:

For the purpose of land use planning in Tumwater, it is important to know what areas of the city are scheduled for water, sewer and stormwater infrastructure improvements and when

these improvements are scheduled to occur. These improvements will support growth due to the greater availability of these urban services. It is also important to ensure a connection between land use and proposed infrastructure improvements. This coordination will lessen the effect of urban sprawl and will provide for a cost effective provision of needed infrastructure improvements.

Land Use Plan at 69. Indeed, planned capital expenditures for the area was an important factor in the Planning Commission's original recommendation of 4-7 DU/Acre.

According to the record, a primary reason for the stormwater and sanitary sewer projects programmed into the Capital Facilities Plan was a concern over protection of groundwater. The 1989 General Sewer Plan provided:

A major consideration in the sizing of. . . the regional interceptor system is the need to remove waste discharges from the aquifer recharge areas for the public water supply. . .

Without the timely extension of the interceptors and associated sewer collection systems, new development within the LOTT Study Area will either be delayed or will utilize on-site disposal systems. If current on-site waste disposal practices continue, groundwater quality will probably deteriorate and the ongoing eutrophication of area lakes will continue. The continued use of on-site disposal systems in the UGMA will also cause lower density development and thereby resulting in higher per unit costs for future sewer construction.

The land use designation of 1 DU/Acre and 2-4 DU/Acre adopted for the SRLUPO area may encourage the area to be developed on septic tanks. Thus, we conclude that the land use designations frustrate the intent of and are inconsistent with the General Sewer Plan and the Capital Facilities Plan.

The designation of the Sapp Road Land Use Plan Overlay Area at densities of 1 DU/Acre and 2-4 DU/Acre may not allow for private financing to share the costs of the Percival Creek Interceptor. If the sewer interceptor is provided to the area as scheduled, it must be done solely at the public's expense. Such a financing scenario is contrary to that envisioned by the Capital Facilities Plan and is highly unlikely. Thus, as it stands today, the Capital Facilities Plan and the Land Use Plan are inconsistent with each other. Under the GMA, the City is required to adjust one or the other.

RCW 36.70A.070(3)(e).

The CAC and later the City Council held only cursory discussions on the information that water, sewer and stormwater facilities and transportation improvements were to be provided to the area. There was no analysis of the costs of these services versus who would pay the costs if development were not allowed at the higher density or of the effect that low-density designation might have on the water quality of the area. There was no analysis or discussion of the requirements of the GMA or the goals, policies and objectives of the Land Use Plan to link urban densities with the provision of urban services. We conclude there was neither considered application of the appropriate requirements of the GMA, nor a deliberation over reasoned choices based on appropriate factors actually considered as evidenced in the record. As a consequence, the low-density land use designations will frustrate the intent of the Capital Facilities Plan to provide for the cost-effective placement of urban services and the plan's intent to protect the environment. We conclude that the land use designation for the SRLUPO area is inconsistent with the Capital Facilities Plan.

### CONCLUSION

The GMA requires that governments planning under the Act comply with the goals and requirements of the Act. The Act requires that a comprehensive plan be based on objectives, principles and standards; be consistent with adopted county-wide planning policies; be an internally consistent document; and that each element of the comprehensive plan must be consistent with the land use map. The planning goals of the Act must be considered and the land use plan must substantively achieve the goals. We conclude that a jurisdiction must comply with these requirements in its decision-making and its product whether planning on a sub-area or single plan basis.

After review of the record and considering the arguments of counsel, we conclude that the SRLUPO area designations of 1 DU/Acre and 2-4 DU/Acre are not in compliance with the Act.

### ORDER

We find that the City of Tumwater's adoption of the land use designation for the Sapp Road Land

Use Plan Overlay area is not in compliance with the Growth Management Act. We remand Resolution 480 to the Tumwater City Council. In remanding we are not requiring that Tumwater cover the Sapp Road area with a 4-7 DU/Acre designation. The City has many avenues to bring its plan into compliance including the use of tools in its fine conservation plan to preserve some of this special greenspace.

We direct that Tumwater bring Resolution 480 into compliance with this decision and order by November 4, 1994. A compliance hearing is set for 10:00 a.m. November 9, 1994.

This is a Final Order under RCW 36.70A.300 for purposes of appeal.

So **ORDERED** this \_\_\_\_\_ day of July, 1994.

WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD

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Nan A. Henriksen  
Board Member/Presiding Officer

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William H. Nielsen  
Board Member

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[1] RCW 36.70A.070

[2] RCW 36.70A.020

[3] RCW 36.70A.200

[4] RCW 36.70A.070

[5] RCW 36.70A.070