

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

WILLIAM ELDRIDGE,)				
)	No. 96-2-0029			
Petitioner,)				
)			FINAL DECISION	
vs.)			AND ORDER	
)				
CITY OF PORT TOWNSEND,)				
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Respondent,)				
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PORT OF PORT TOWNSEND,)				
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Intervenor.)				
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What does a city do when it has completed its work for a comprehensive plan (CP, plan) and the county wherein it is located lags far behind? What level of information and analysis does the Growth Management Act (GMA, Act) require a local government to place within the confines of the adopted comprehensive plan? These two questions are the essence of the issues presented in this case. The long and winding trail traversed by Port Townsend (City) to complete its CP must be retraced to fully understand this case.

Port Townsend played a significant role in providing input into the Jefferson County county-wide planning policies (CPPs) adopted in 1992. Thereafter the City began its own planning process in earnest. Over 1,400 hours of individual citizen discussions resulted from the heavily advertised coffee hours voluntarily hosted from March through May of 1993. The results of that extensive citizen involvement were compiled. Two workshops were held and the citizens themselves prepared a draft Community Directions Statement. Thereafter the City Council adopted the final Community Directions Statement.

In 1994, the then Mayor appointed council members, planning commissioners and individual citizens to five separate citizen work groups to develop the goals, policies and implementing strategies for the CP. A sixth committee was appointed to coordinate the efforts of the other work groups. The City planning staff provided each group with educational assistance relating to the GMA, CPPs, procedural criteria under WAC 365-195 and minimum GMA guidelines. Manuals and other information prepared by the Washington State Department of Community, Trade and Economic Development were provided to the work groups. Over 50 publicly noticed meetings were held through December 19, 1995. The City also placed a "what do you think" survey in the local newspaper.

Thereafter planning staff conducted inventories and analyses of the citizen work to identify appropriate information for the ultimate location of land uses. Included within this information was a "land capacity analysis" (Ex. 3). While it is easy to say that the public participation outreach, response from the citizens of Port Townsend and the quality of work done by planning staff was outstanding for a city of Port Townsend's size, in fact the efforts were outstanding for a local government of any size. Rarely, if ever, have we reviewed a record that demonstrated both dedication to citizen involvement and a response by citizens to set aside individual selfish concerns to achieve a greater good for the benefit of all.

The essence of petitioner's challenges did not relate to the first three questions of our four-part analysis (proper interpretation, public participation and/or thorough analysis) but rather related to question #4 of whether the ultimate product or decision was within the parameters established by the Legislature in the GMA.

The City adopted its CP on July 15, 1996. The original petition was filed September 13, 1996. A prehearing conference was scheduled and held on October 17, 1996. A motion to intervene from the Port of Port Townsend and an amended petition to answer some of the City's concerns about specificity, were filed shortly before the prehearing conference. An order granting intervention and a prehearing order both were issued on October 17, 1996. The prehearing order established 15 issues to be decided at the Hearing on the Merits which was held January 14, 1997.

Petitioner Eldridge (not related to Board member Eldridge), two other individuals and the Jefferson County Homebuilders Association were the original petitioners. The City challenged their claimed standing under the Administrative Procedures Act (APA) RCW 34.05. Petitioners filed a motion to present supplemental evidence at the Hearing on the Merits. The motions were heard on November 14, 1996.

On November 27, 1996, we issued an order which denied the request for supplemental evidence and granted the City's motion to dismiss petitioners because of their failure to demonstrate APA standing. We went on to hold that the record independently demonstrated that petitioner Eldridge had "participated" thus establishing standing to proceed with this case. The factual basis and reasoning for our decision is found in the November 27, 1996, Order. The City's December 4, 1996, motion for reconsideration was argued at the Hearing on the Merits. That motion for reconsideration is denied.

On January 10, 1997, we received a telephone call from the Port of Port Townsend stating that it had resolved all issues with the City. A written stipulation to that effect was signed by both parties on January 13, 1997. We commend the Port and the City for continuing to discuss their differences and finding a way to resolve them at the local level. We believe, and always have, that the most effective solutions to GMA issues are those developed at the local level, as long as they fall within the parameters established by the Legislature in the GMA. It is our hope that more mediation and settlement procedures will be used by future parties.

We turn then to the remaining issues in this case that were not amenable to local resolution. The gravamen of petitioner's complaint was that the CP was neither final nor comprehensive. Much of the misunderstanding in this case can be traced to the presentation to the public of the CP in its final form. The published CP contained the adopting ordinance, a number of other technical adoption matters, the elements required by RCW 36.70A.070, an economic development element, a chapter on consistency with the GMA and CPPs, a glossary and an attached map of the land use designations. Section I of the adopting ordinance referenced exhibits "A" through "G" as being attached and "approved in its entirety" as the CP. Section IV of the ordinance, dealing with preparation of CP copies, directed that exhibits "A" through "D" were to be incorporated into "one coherent document for public use". Section VI of the ordinance identified exhibit "E" as the previously adopted Urban Waterfront Plan, exhibit "F" as the previously adopted Gateway Development Plan and exhibit "G" as the previously adopted Parks and Recreation Plan. Finally the ordinance noted that originals of exhibits "A" through "F" were on file in the City Clerk's Office. Exhibits "A" through "D" were not identified either in the ordinance or in the final plan distributed to the public. The record revealed that exhibit "A" is the draft CP along with attached appendixes, exhibit "B" the draft CP changes recommended by the planning commission, exhibit "C" the Final Environmental Impact Statement and exhibit "D" the draft plan with the changes ultimately adopted by the City Council.

With that understanding many of the contentions from petitioner are answered. The draft plan and appendixes did include the necessary description, inventory and location of current and future public facilities and services. The land capacity analysis was not only adequate, but far beyond that description. We failed to understand petitioner's complaints concerning the Capital Facilities Element. Not only were the requirements of RCW 36.70A.070(3) complied with, the analysis contained in that element is the most thorough and complete we have ever reviewed. Similarly the complaint about the failure to adopt the Shoreline Master Program is refuted by referring to page IV-10 which specifically incorporated it into the CP.

A review of the adopting ordinance and the plan itself demonstrates that all of the required elements and analyses are contained in the document or have been adopted by reference. To use the analogy of the parties a plan must not be as large as War and Peace, but must also not be synthesized to the point of being merely crib notes to War and Peace. The City Council adopted the proper documents to comply with the goals and requirements of the Act. Even if we agreed with petitioner's contention that the document distributed to the public falls short of including all the necessary materials, that is a staffing issue which does not rise to lack of compliance with the GMA.

Petitioner has also failed in his burden of proof to show that City has not prioritized public facilities, services and utilities. As noted earlier, the Capital Facilities Element stands out as the best we have ever reviewed. It contained an excellent discussion on level of service standards adopted by the City, potential revenue, identification of costs and a prioritization process for action if probable funding sources became insufficient.

Additionally, the City adopted a three-tier approach for maximizing efficient use of existing infrastructure and providing for future infrastructure. Tier I is located where existing infrastructure is adequate to sustain current population growth and development patterns. Tier II is located where adequate infrastructure can be expanded in the near term by either public or private funding. Tier III is located on the outer reaches of the City and is not scheduled for development until much later when public funding may be available or unless a developer fully funds all infrastructure costs. This tiering method not only complies with the Act but goes well beyond compliance to achieve one of the fundamental purposes of the Act; to maximize efficient use of tax dollars.

In a similar vein, petitioner's contention that the CP did not provide adequate affordable housing is incorrect. The tiering concept and significant upzones to authorize multi-family housing within tier I and tier II is a major step toward solving the affordable housing problems existing in Port Townsend. The plan allows duplexes, triplexes and fourplexes in all single-family residential districts, allows manufactured homes in all single-family residential districts outside the National Register Historic District, provides over 200 additional acres of land for multi-family use and allows accessory dwelling units throughout the city. The City placed the multi-family zones throughout tiers I, II and III and clearly acted within the discretion afforded by the Act in location of those zones.

Petitioner failed to sustain his burden of proof to show that the plan was not "comprehensive". Not only did it contain the necessary and required information to comply with the Act, the plan went far beyond mere compliance and could well serve as a model for any city in our jurisdiction.

Petitioner further contended that the plan was not "final" because it relied on future designation of an area outside the city limits to provide necessary economic development. Petitioner also contended that the plan did not include a process for identifying and siting essential public facilities as required by RCW 36.70A.200. These contentions bring into issue the earlier stated question of what must the City do if the County has not completed its work when the City is ready to adopt its CP.

The city limits issue stems from our earlier case of *Port Townsend v. Jefferson County* #94-2-0006. In that case we determined that the County had not completed sufficient analyses to allow it to establish *interim* urban growth areas (IUGAs). Other issues were involved in that case not relevant to this discussion. We concluded that under GMA no IUGA outside municipal limits could be designated without adequate information. Jefferson County thereafter designated Port Townsend as its only IUGA. Subsequently in *Loomis v. Jefferson County* #95-2-0066 we held that the County's attempt to establish an IUGA at Port Ludlow was again analytically flawed and did not comply with the Act.

This record revealed that the County has abandoned its desire to establish IUGAs and now plans to adopt urban growth areas (UGAs) in its CP. Some of those proposed areas are outside the Port Townsend city limits. One targeted area, adjacent to Port Townsend, is referred to as Glen Cove. Because of the County's decision to

strongly consider the Glen Cove area as an UGA, part of the City's CP dealt with the effect on the plan of including the area. Contrary to petitioner's contention, the City did not put off planning its Economic Development Element nor rely upon inclusion of Glen Cove as a necessary later action to complete its CP. Rather the plan, independent of Glen Cove, set forth policies and direction for the type of economic development the City wanted within its existing boundaries. If Glen Cove is never included in the City's UGA the economic development aspects of the CP still complies with the Act and is within the discretion afforded to local governments by the Act. If the County ever designates the area as an UGA, a failure to include conceptual planning for Glen Cove might have violated the GMA. Such a failure would not have been up to the standards exhibited by the City throughout this case. The petitioner has failed to prove that the City had an obligation to do more than it did in planning for Glen Cove and has failed to show that the economic planning that was done in this CP did not comply with the Act.

A more difficult question involves the necessity for the plan to establish a "process" for essential public facilities. Recognizing that most, if not all, essential public facilities are, or should be regional decisions, the City looked to the CPPs to establish a process. The County has yet to establish one of its own. In its Land Use Element the City adopted six separate policies, the first of which was conformation with CPP #4.

The criteria in the CPPs were incorporated into policy 7.1 of the Capital Facilities and Utilities element. That policy emphasized the necessity to have the City and the County "jointly develop specific siting criteria and standards". The CP policy also included criteria of proximity to major transportation routes and essential infrastructure, land use compatibility, potential environmental impacts, effects on resource lands and critical areas, proximity to urban growth areas, public cost and benefits, current capacity in location of equivalent facilities and existence within the community of reasonable alternatives. Petitioner has failed to show what other "process", particularly under the facts of this case, the City could have or should have adopted in order to comply with the Act.

We find that the City has complied with the GMA in all respects challenged by petitioner. We congratulate the City on an outstanding comprehensive plan.

This is a Final Order under RCW 36.70A.300(5) for purposes of appeal.

So Ordered this 5th day of February, 1997.

WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD

William H. Nielsen
Presiding Officer

Les Eldridge
Board Member

Nan A. Henriksen
Board Member