

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

TOWN OF FRIDAY HARBOR, FRED R. KLEIN,)	
JOHN M. CAMPBELL, AND LYNN BAHRYCH, et al.,)	No. 99-2-0010c
)	
Petitioners,)	FINAL DECISION
)	AND ORDER
v.)	
)	
SAN JUAN COUNTY,)	
)	
Respondent,)	
)	
and)	
)	
JOE SYMONS, FRIENDS OF THE SAN JUANS, and)	
KAREN J. KEY SPECK, et al.,)	
)	
Intervenors.)	
_____)	

The 743 islands, reefs and rocks which at low tide constitute San Juan County stretch toward Vancouver Island from the northwest corner of Skagit County. At high tide the number of islands, reefs and rocks is reduced to 428. They rise from depths rarely more than 400 feet below the surface of this arm of the Pacific Ocean. The Islands' highest point, 2,454-foot Mount Constitution, (named for the U.S. frigate, not the document) was once polished by glaciers one-half mile thick, roughly 15,000 years ago. Most of the northern part of Lopez Island is smothered with a deep layer of glacial debris.

The islands, rocks and reefs which form San Juan County are found at the juncture of the Strait of Juan de Fuca and the Gulf of Georgia, and are immediately bounded by Haro Strait and Rosario Strait. Some 175 islands and reefs are individually named. The island and waterway names reflect the native peoples and the earliest explorers and settlers from Europe, the Americas and the Pacific: Spanish, Greek, Peruvian, British, Hawaiian and American.

The land area of the County totals approximately 175 square miles and the saltwater shorelines

some 375 miles. It is the smallest county in the state in terms of land area, and the largest in the nation in terms of saltwater shoreline area.

About 20 of the islands have year-round residents, but most of the population is concentrated on the four ferry-served islands: Shaw, Lopez, Orcas and San Juan. Almost 50% of the people live on San Juan Island, which includes the Town of Friday Harbor. Only about 15% of the County's 12,500 full-time residents live within the town.

The state average of real property value per capita is \$61,057. Jefferson County has the number 2 ranking throughout the state with a real property value per capita of \$82,840. San Juan County is number 1 with almost three times that of Jefferson County; a value per capita of \$215,067. San Juan County is unique. But, then again, so is every county.

After the passage of the Growth Management Act (GMA, Act) in 1990, San Juan County opted to be included under RCW 36.70A.040(2). At the end of 1996 the County passed its initial Comprehensive Plan (CP) which was the subject of a number of petitions in March, 1997. Ultimately the County rescinded its CP and the petitions were dismissed. (*see Barnes v. San Juan County* #97-2-0019).

Revisions were made which culminated in the passage of the CP and Uniform Development Code (UDC) on June 15, 1998. Because amendments to the County's Shoreline Master Program (SMP) were included, the effective date of the CP and UDC was delayed. After the SMP was approved by the Washington State Department of Ecology, notice of adoption was published and an effective date of December 20, 1998 was adopted. On February 8, 1999, the Town of Friday Harbor submitted a petition for review (PFR). On February 12, 1999, a PFR on behalf of Lynn Bahrych and others was filed. On February 16, 1999, John Campbell and Fred Klein each filed a PFR.

Four other petitions were filed. Two of those are in settlement negotiations with extended times for filing the final decision and order (FDO), the third was dismissed and the fourth has been settled. Edward McGuire of the Central Puget Sound Growth Management Hearings Board was instrumental in assisting the resolution of those petitions.

Subsequent to the petitions, requests for intervention on behalf of the Friends of San Juan County (Friends), Joe Symons, Ken and Kay Speck and others were filed. A request for *amicus curiae* status was filed by Maile Johnson.

A prehearing conference was held in Friday Harbor on March 18, 1999, and a prehearing order was entered on March 29, 1999. Contemporaneously, orders of consolidation and granting of intervention and *amici* status were also entered.

A motions hearing was held in Friday Harbor on April 21, 1999. After the hearing a supplemental exhibits order was entered on April 23, 1999. As a result of the supplemental index order and a notice of supplementation of the record dated May 26, 1999, a supplemental index concluding with number 220,247 was filed by the County. The County's index system involved sequential numbering of each page of each exhibit. An order denying dismissal of State Environmental Policy Act (SEPA) claims for lack of standing was also entered on April 23, 1999.

On May 28, 1999, San Juan County (SJC) filed an objection to the use of declarations by Petitioner Bahrych et.al. submitted in response to the motion to dismiss SEPA claims, and to statements made by various petitioners which were unsupported by the record. Intervenor Symons filed a response on June 4, 1999. Petitioner Bahrych et.al., filed a response on June 10, 1999. Additionally, Intervenor Symons filed a letter dated May 27, 1999, dealing with the numbering of illustrative exhibits as part of the index.

At the hearing on the merits (HOM) on June 15, 1999, Petitioner Bahrych submitted two newspaper articles, one from the Seattle Times and one from the Island Sounder. Intervenor Friends had previously attached to its brief a portion of a January 19, 1999 Wescott-Garrison Bay Watershed Assessment Report. At the hearing Friends submitted the entire assessment report.

At the HOM the presiding officer ruled that the previous declarations were part of the record and would be used and given the weight that they were entitled to. The illustrative supplementations attached to Intervenor Symons' and Petitioner Klein's briefs were ruled to be part of the record even though no specific index number had been assigned by the County.

The statements of petitioners that were claimed to be unsupported by the record will be given the weight they deserve. We will not consider the two newspaper articles submitted by Petitioner Bahrych, nor the Watershed Assessment Report submitted by Friends, on the grounds of relevancy to the issues established in the prehearing order. We turn now to the issues presented by the PFRs and the prehearing order.

At the very inception of the GMA process in 1992, the Board of County Commissioners (BOCC) made a policy decision that existing densities established in 1979 for the 1980 CP would not be changed and would not be the subject of any discussion. As the County acknowledged at the HOM, this policy decision was made without any analysis from staff, the public or the BOCC themselves.

A great deal of time in public hearings thereafter involved repeated requests for the BOCC to reverse this policy. The frustration this decision caused was eloquently summarized in the introduction of the brief of *amici* as follows:

“It is common knowledge in the San Juan County community that the density zoning enacted in 1979 after years of freedom to develop almost at will, was controversial, aroused passions and involved no evaluation of the cumulative impacts of development on rural character or conservation of natural or cultural resources. The preference of landowners was surely the single most influential criteria (*sic*) applied. Though a valid and useful beginning for local planning at that time, it is an understatement to say this process was more arbitrary than evaluative and by no means can be deemed to comply with state law requirements for obtaining the widest range of beneficial uses of the environment, achieving a balance between population and resource use, or providing a rational basis for directing development patterns and accommodating change based on designation of lands and evaluation of impacts. RCW 43.21C.020(2)(c),(f) and 36.70A.”

While it would be surprising, it is not impossible for densities adopted in 1980 to comply with the Act. The CP and UDC are clothed with a presumption of validity, RCW 36.70A.320(1), and it is petitioners' burden to show noncompliance under the clearly erroneous standard. RCW 36.70A.320(2). While a serious argument could be made that the retention of 1980 densities without public input violated RCW 36.70A.140, the parties, including the County, have framed the issues to avoid, and specifically requested that we not simply find, a public participation

procedural violation. All parties request that we address compliance of the current CP and UDC with the GMA. We carefully examined the record and reviewed the arguments to determine if this fundamental decision to retain 1980 densities was also a fatal flaw.

In the GMA, as in life, “everything depends upon everything”. The variety of issues raised in this case are all ultimately tied to the 1980 density retention decision. Nonetheless, for ease of reference we will sub-categorize the issues with the caveat that they are all intertwined.

DENSITIES

The Town of Friday Harbor limited its challenge to three areas adjacent to the urban growth area (UGA) boundary. The official map, which under CP 2.2.A.7 reflects the maximum allowable density for any given parcel, allows 1 dwelling unit (du) per ½ acre (ac) in two of the three areas outside the UGA. The third area allows densities of 1du/2ac. The three areas are variously designated as rural residential (RR), rural farm resource (RFR) or agricultural resource (AR). At the HOM the Town presented an exhibit (for illustrative purposes) which demonstrated that the total land area of the Friday Harbor UGA is 719 acres, while the ½-acre densities constitute a total area of 1,260 acres and the 2-acre lots total 382 acres. The District #1 official map shows that the Turn-Point/Pear-Point (½-acre lots) areas include 9 parcels of 30 to 40 acres each, which are undeveloped and under single-ownership, 8 single-ownership undeveloped 10-acre parcels and numerous 5 to 10 acre single ownership undeveloped parcels.

The Town contended that the density allowed in these areas constituted urban growth under the definition contained in RCW 36.70A.030(17), and not rural growth under the rural character and rural development definitions contained in RCW 36.70A.030(14) and (15). The Town observed that the allowable densities in these areas epitomized the concept of sprawl, which it characterized as densities too high to be rural and too low to be urban. The Town further pointed out that the record was devoid of any public facilities and service analysis relating to these three areas, in violation of RCW 36.70A.020(12). All of the reasons why this occurred, according to the Town, could be focused on CP 2.1.C, which retained the 1980 CP densities.

We agree with the Town’s position. While rural growth may once have been appropriately

characterized as the “left-over meatloaf in the GMA refrigerator”, *Port Townsend v. Jefferson County*, #94-2-0006, legislative amendments to the GMA in 1997 more clearly defined the type of growth that is allowable in rural areas. As observed in *Sky Valley v. Snohomish County*, CPSGMHB #95-3-0068, surrounding an UGA with 2-acre lots and ½-acre lots is the epitome of inappropriate low-density development (RCW 36.70A.020(2)) and probably a death knell to any reasonable future expansion of the UGA. While the County has indicated that it wants to resolve this problem by means of voluntary action by the property owners, it is clear that such an approach has not worked and it is time, under the requirements of the GMA, to take forceful action to achieve compliance.

Except in extremely unusual circumstances not shown here, 2-acre and ½-acre lots qualify as urban growth under the GMA. RCW 36.70A.110 prohibits urban growth outside of UGAs. RCW 36.70A.070(5) requires that non-resource and non-critical areas outside of UGAs allow only rural growth. 2-acre and ½-acre lots do not qualify as rural growth, except in extraordinary circumstances not presented by the record here. The County did not claim that these areas were subject to the .070(5)(d) provisions for limited areas of more intensive rural development (AMIRD). In addition to failing to comply with the Act, the allowance of these densities in the three areas substantially interfere with goals 1, 2 and 12 because they constitute urban growth, *Diehl v. Mason County*, 94 Wn.App. 645, 656 (1999), and do not constitute rural growth.

Beyond the three areas challenged by the Town of Friday Harbor, Petitioners Bahrych et. al., Klein, Campbell and *amici* point out that rural lot designations throughout the County involve several thousand acres of 1du/2ac of RFF (non-resource land designations) as shown in CP Appendix 9, table 1-2. According to Appendix 9, pages 2-24, 70% of the developable area of SJC is classified in rural designations. Approximately 12,000 acres of shorelines contain densities of 1du/½ac and 1du/2ac according to Appendix 1, table 18. Many of the upland 1du/2ac densities border designated resource lands (R/Ls).

Additionally, the official maps often conflict with and are inconsistent with the CP criteria used to establish the various rural zones. Of the approximately 12,000 acres that are listed in Appendix 1, table 18, formerly named suburban lots under the 1980 CP, only the name was changed, not the allowable density. Because almost none of the rural designations are truly rural

and in many cases constitute urban growth, we find that the density allowances on any and all of the rural zoning classification zones fail to comply with the GMA. Additionally, for the same reasons we find that all zoning classifications or basic density allowances that allow for lots less than 5 acres in size in any rural designated zone substantially interfere with goals 1, 2, 8, 9, 10, 12 and 14 (RCW 90.58.020) RCW 36.70A.480. This finding of invalidity does not include areas designated in the CP as villages, hamlets or activity centers. The finding does not include areas designated as agricultural or forest resource lands. Invalidity does not independently attach to the provisions for guesthouse use or their short or long-term rentals. All of these issues are discussed separately below.

RESOURCE LANDS

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According to CP 2.3.C(a) and (b) the criteria for agricultural R/L designation involve lots of 10 acres or greater. For forestry R/L designation 20 acres is the minimum lot size. The official maps (each of the three districts has its own separate map) allow densities as low as 1du/5ac and development of up to 20% of any R/L parcel for non-resource land use under UDC section 6.

Amici argued that R/L designations violated the recent case of *Redmond v. Growth Hearings Bd.* 133 Wn.2d 38 (1998) and that much of the acreage of the RFF zone should have been designated as R/L. The County contended that little, if any, of the agricultural and forest designations were truly long-term commercially viable. We reject those contentions because nothing in the prehearing order issue statement challenged the correctness of the R/L designations. Rather the challenges related to the densities allowed within those R/Ls.

Petitioner Klein, in Ex. G, H, and I to his brief, demonstrated that with one exception, all of the R/L designations disappeared when overlaid by the official maps allowing more than criteria-adopted densities. The official maps' densities are totally inconsistent with the CP criteria and with GMA standards and fail to comply with the Act.

The UDC and allowable densities do not assure the conservation of R/Ls, nor assure that adjacent uses do not interfere with customary R/L uses, nor discourage incompatible uses. Allowance of any densities below 1du/10ac in agricultural resource land or 1du/20ac in forest resource land

violates RCW 36.70A.060 and substantially interferes with goal 8 of the Act. Additionally, the allowance of densities more intense than 1du/5ac in areas surrounding designated R/Ls violates RCW 36.70A.060 and substantially interferes with goal 8 of the Act.

CONSISTENCY

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As demonstrated above, the official maps that establish various densities for rural and R/L areas are often totally inconsistent with the CP. For example, in rural residential (RR) designations under CP 2.3.B(c), one of the criteria for designation is 2 to 5-acre minimum lot size. The official maps allow maximum densities of 1du/1/2ac. Petitioner Klein's exhibits demonstrate that one-third to one-half of all CP designations were inconsistent with the official maps' allowable densities. A March 27, 1998 memorandum from the prosecuting attorney to the BOCC (Ex.170925 et. seq.) set forth in detail the various inconsistencies between the CP, UDC and official maps.

Intervenor Symons correctly pointed out that the maps were also significantly inconsistent with the vision statement set forth as the guiding principle for the CP. These inconsistencies, caused by the retention of 1980 densities, do not comply with the GMA.

AREAS OF MORE INTENSE RURAL DEVELOPMENT

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The CP designates villages, hamlets and activity centers on Shaw, Lopez and Orcas Islands. Friday Harbor is the only UGA. While the County contended that these more intensive areas were authorized by RCW 36.70A.070(5)(d), it acknowledged during the questioning part of the HOM that no separate analysis of whether these AMIRDs complied with the requirements of RCW 36.70A.070(5)(d) had occurred. Rather, the designations were based solely upon an inventory of existing conditions. No attempt was made to establish the built environment as of July 1, 1990. No analysis of the potential for infill development or redevelopment was done. No measures to minimize or contain existing areas or uses were adopted or even considered. No logical outer boundary of the existing area or use, to avoid new patterns of low-density sprawl, was established.

The County is correct when it asserts that commercial, industrial, residential, shoreline, or mixed use areas were not subject to the requirements of sub-section (c)(ii) and (iii). Assuring visual compatibility and reducing inappropriate conversion of undeveloped land into sprawling low-density development does not apply to those situations. The County did acknowledge, however, that it had done no analysis of these criteria. Finally, the County did not prepare a written record explaining how the rural element harmonized planning goals and met requirements of the GMA as provided for in RCW 36.70A.070(5)(a). The County did not contest the assertion of Petitioner Bahrych that all of the essential work for designations of villages, hamlets and activity centers had been completed prior to the 1997 amendments. In any event Ex. 170925 et.seq. (the March 27, 1998 letter from Prosecuting Attorney Gaylord) set forth the various requirements of RCW 36.70A.070(5)(d). They appear to have been ignored.

We find that the establishment of the villages, hamlets and activity centers do not comply with the Act. We have not been requested to, nor would we, find that these designated areas substantially interfere the goals of the Act.

GUESTHOUSES

In one of the most contentious aspects of this case, petitioners challenged the provisions of the CP and UDC that allow one attached or detached guesthouse not to exceed 1,000 square feet for every single family residence (SFR) existing or allowable throughout the County. Petitioners argued that the effect of these provisions was the doubling of already excessive allowable densities throughout the County. Petitioners claimed that no appropriate SEPA review had taken place with regard to the impacts of doubling allowable densities. A staff report of May 11, 1998 (Ex. 171548) acknowledged that expansion of allowable guesthouses would have a significant adverse environmental impact. Additionally, petitioners claimed that no public facilities and services concurrency analysis as related to water and sewer issues had been done, as borne out by Ex. 171554.

The County disputed whether densities would double because of these provisions. Relating that guesthouses have historically been a part of SJC's landscape, the County nonetheless

acknowledged that it had nothing more than anecdotal guestimates as to what was in existence at the current time, what the projected need, if any, for additional guesthouses was and no analysis at all of potential costs for additional guesthouse public facilities and services needs.

Because the allowance of guesthouses is so intertwined with the density issues noted above, which are noncompliant and in most cases invalid, we find that the CP and UDC provisions allowing new guesthouses do not comply with the Act.

We have studied the addendum SJC has submitted with its briefing and find that it is an accurate depiction of the conditions under which guesthouses would or would not be allowed. We do not find a failure to comply with the Act with regard to that issue.

If the County wishes to allow guesthouses as an accessory dwelling unit for each SFR it must first do an analysis which includes existing conditions, a reasonable projection of future guesthouse additions and the need for them as well as the potential additional cost of public services and facilities needed for this new growth. The County must also ensure that the additional guesthouse densities are considered and consistent with the basic densities to be established during the remand. SJC must particularly analyze the impact of guesthouses on its shorelines, R/Ls and critical areas.

We recognize that SJC has a very limited staff for gathering this type of information, but under the requirements of the GMA the County cannot potentially double its density allowances without some understanding of what effect that action will have. We do not find an independent substantial interference with the goals of the Act by the UDC provisions allowing new guesthouses.

RENTALS

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As part of its provisions for new guesthouses, the County set forth various opportunities for either short-term (less than 30 days) or long-term rentals of the existing and new guesthouses. Petitioner Bahrych contended that at least for short-term rentals the effect was to allow a commercial activity in rural areas in violation of RCW 36.70A.070(5)(d). During its reevaluation

of the density issues, the County must also review this issue, particularly in light of .070(5)(d) (iv). We do not find independent substantial interference with the goals of the Act under the short-term and/or long-term rental provisions of the CP or UDC..

DEFINITION OF FAMILY

During the CP process the County adopted a definition of family which increased the number of potential residents in a SFR from 5 to 8. Petitioner Bahrych complained that the adoption was done without adequate public participation, adequate SEPA analysis and did not comply with the GMA.

The County pointed out that the issue was specifically raised in the May 6, 1998 draft CP and discussed during the June 2, 1998 public hearing during which Petitioner Bahrych commented on the changed definition. We note that Ordinance 2-1998 was adopted June 15, 1998. The County contended that a SEPA analysis was not needed because the effect of the redefinition was to actually reduce the potential number of people in a SFR when the guesthouse accessory dwelling unit (ADU) allowance was also considered. The County noted that it had adopted the Department of Community Trade and Economic Development model ordinance for ADUs, which included the new family definition. Additionally, the County observed that by allowing up to 8 related and unrelated members to be considered a family it was complying with federal law.

Although the public participation compliance was minimalistic, we find petitioners have failed to sustain their burden of proving that the County's action with regard to the definition of family did not comply with the GMA. There was not sufficient evidence of potential increases in density by the redefinition to overcome the presumption of validity. The County analyzed the issue and took action that complied with the GMA.

AFFORDABLE HOUSING

Petitioner Campbell contended that the County had failed to adequately address the requirements for housing availability for all economic segments. The County contended that it had set up a housing advisory board and that the provisions for long-term rental of guesthouses were intended

to allow greater affordability of housing. We find it somewhat incongruous to assert that per capita property values of \$215,000 would allow or even encourage a homeowner to build a second structure of such a type as to be available for low or middle income housing. In any event, the County acknowledged that it had little, if any, data with which to make this determination.

The policies set forth in the CP are not, with one exception, specific enough to satisfy the affordable housing requirements of the GMA. The one exception involves CP 5.2.A(5) that provides standards for cluster development, small lot and small lot districts, manufactured housing and planned unit developments. Petitioner Campbell pointed out that on San Juan Island, which contains approximately ½ of the total county population, no such zoning is provided for.

Additionally, CP 5.2.B has not been implemented by appropriate development regulations. The County acknowledged that it has more work to do on the affordable housing issue and we agree. The County has failed to comply with the Act in this regard. We do not find any independent substantial interference with the goals of the Act with this noncompliance. We note that the suggestions made by Petitioner Campbell for resolution of the County's duty to "encourage" affordable housing are worthy of strong consideration.

ORDER

We would be remiss if we did not acknowledge, as did petitioners, the excellence of the CP and UDC in the areas that were not challenged. SJC is justifiably proud of its accomplishments in those other areas.

In order to comply with the Act, SJC must take the following actions:

- (1) establish densities outside UGAs, villages, hamlets and activity centers that are consistent with the CP and the GMA;
- (2) Analyze and comply with RCW 36.70A.070(5)(d) for the areas designated as hamlets, villages and activity centers;

- (3) Analyze current and potential new guesthouse use and rentals in light of GMA goals and requirements and the new density designation; and
- (4) complete the work necessary to encourage affordable housing.

Under RCW 36.70A.300(3)(b) the County must complete these actions within 180 days. Because these issues involve unusual scope and complexity, once SJC establishes a schedule for completion we will consider extension of the deadline.

Findings of Fact required by RCW 36.70A.270(6) and Findings of Fact and Conclusions of Law required by RCW 36.70A.302(1)(b) are adopted and appended as Appendix I.

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

Pursuant to WAC 242-02-832(1), a motion for reconsideration may be filed within ten days of issuance of this final decision.

So ORDERED this 21st day of July, 1999.

WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD

William H. Nielsen
Board Member

Nan A. Henriksen
Board Member

Les Eldridge
Board Member

APPENDIX I

FINDINGS OF FACT REGARDING COMPLIANCE

PURSUANT TO RCW 36.70A.270(6)

and

FINDINGS OF FACT AND CONCLUSIONS OF LAW

REGARDING INVALIDITY

PURSUANT TO RCW 36.70A.302(1)(b)

1. San Juan County consists of approximately 175 square miles of land areas and 375 miles of saltwater shorelines.
2. There are approximately 12,500 full-time residents in the County. 50% of the full-time residents live on the island of San Juan.
3. The Town of Friday Harbor is contained within the only urban growth area of SJC. Approximately 15% of the County's full-time residents live within the Town.
4. The CP and UDC were approved by the BOCC on June 15, 1998. The SMP was ultimately approved by DOE and the County adopted an effective date of December 20, 1998 for its CP and UDC.
5. The County's challenge to petitioners' SEPA standing was denied on April 23, 1999.
6. In 1992 the County adopted a policy to retain the 1980 CP densities. The policy was implemented in the 1998 CP 2.1.C. No analysis of how the 1980 densities complied with the GMA was ever performed.
7. CP 2.2.A.7 specifies that the official maps (OMs) specify the maximum allowable densities throughout each parcel within the County.
8. Two areas surrounding and adjacent to the Friday Harbor UGA allow lots as small as ½ acre. One area allows lots as small as 2 acres. All three areas contain large single-

ownership undeveloped parcels.

9. The allowance of ½ acre and 2-acre lots adjacent to and surrounding the UGA promotes low-density sprawl, constitutes urban growth and does not constitute rural growth under the GMA. The County has never undertaken an analysis of the public services and public facilities impacts of the three areas. The density allowances within the three areas do not comply with the GMA.

10. For the reasons set forth in Finding #9, the density allowances substantially interfere with goals 1, 2 and 12.

11. All the rural zoning throughout SJC involve densities that often constitute urban growth, do not constitute rural growth and are inconsistent with CP criteria. For those reasons all rural zoning classifications fail to comply with the Act.

12. OM densities that allow less than 5-acre minimum lot size in any rural classifications substantially interfere with goals 1, 2, 8, 9, 10, 12 and 14 (RCW 90.58.020).

13. The allowable densities in resource lands do not assure conservation of resource lands, do not assure that adjacent uses will not interfere with customary resource land uses and do not discourage incompatible uses as required by the GMA.

14. The densities allowed within resource lands are inconsistent with the CP criteria and with GMA standards and therefore fail to comply with the Act.

15. Resource land allowable densities of less than 10-acre minimums in agricultural resource classifications or 20-acre minimum densities in forest resource land classifications substantially interfere with goal 8 of the Act.

16. Allowable densities of less than 5 acres adjoining resource land designations fail to comply with the GMA and substantially interfere with goal 8 of the Act.

17. The County has not engaged in an analysis of how the villages, hamlets and activity center designations comply with the recent amendments to RCW 36.70A.070(5)(d). The classifications were assigned simply as an inventory of existing conditions. Failure to conduct the appropriate analysis renders the classifications out of compliance with the GMA.

18. The County has failed to analyze the impacts of allowance of attached or detached guesthouses for each SFR and therefore has failed to comply with the Act. An appropriate

analysis to be included in the density review analysis with particular emphasis on the impacts to shorelines, resource lands and critical areas. The allowance of short-term rentals of guesthouses without appropriate analysis under RCW 36.70A.070(5)(d)(iv) does not comply with the GMA.

19. Petitioners have failed to overcome the presumption of validity and sustain their burden of proof regarding the new definition of family contained in the CP and UDC.

20. The CP policies for affordable housing do not satisfy GMA requirements. There is no implementation of CP 5.2.A(5) for San Juan Island. There is no implementation of CP 5.2.B.

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CONCLUSIONS OF LAW REGARDING INVALIDITY

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1. The density allowances in the three areas surrounding the Friday Harbor UGA substantially interfere with goals 1, 2 and 12 of the Act .

2. The rural classification density allowances throughout the County that involve minimum lot size less than 5 acres substantially interfere with goals 1, 2, 8, 9, 10, 12 and 14 of the Act.

3. Minimum lot size allowances in the agricultural zone of less than 10 acres and in the forest resource zone of less than 20 acres substantially interferes with goal 8 of the Act.

4. Density allowances of less than 5 acres adjoining resource land designations substantially interfere with goal 8 of the Act.