



PLANNING COMMISSION AGENDA
September 28, 2016, 6:00 p.m.
Multipurpose Room/Council Chamber
Burien City Hall, 400 SW 152nd Street
Burien, Washington 98166

This meeting can be watched live on Burien Cable Channel 21 or on www.burienmedia.org

1. ROLL CALL

2. AGENDA CONFIRMATION

SPECIAL MEETING: PLANNING SHORT COURSE 6:15 – 9:15 PM

3. APPROVAL OF MINUTES

4. PUBLIC COMMENT

5. PUBLIC HEARING

6. OLD BUSINESS

7. PLANNING COMMISSION COMMUNICATIONS

8. DIRECTOR'S REPORT

9. ADJOURNMENT

Future Agendas (Tentative)

Planning Commission meetings are accessible to people with disabilities. Please phone (206) 248-5517 at least 48 hours prior to the meeting to request assistance. American Sign Language (ASL) interpretation and assisted listening devices are available upon request.

Planning Commissioners

Curtis Olsen (Chair)

Amy Rosenfield (Vice-Chair)

Kaelene Nobis

Butch Henderson

Douglas Weber

Kim Davis
Anna Markee

A SHORTCOURSE



Department of Commerce

ON LOCAL PLANNING

A Short Course on Local Planning

Hosted by the City of Burien

Wednesday, September 28, 2016, 6:15–9:15 p.m.

Burien City Hall 400 SW 152nd St, Suite 300, Burien, WA 98166

Agenda:

- 6:15– 6:30 WELCOME AND INTRODUCTIONS.....Commerce**
- 6:30 – 7:10 THE LEGAL BASIS OF PLANNING IN WASHINGTON.....Ray Liaw, Attorney at Law**
The constitutional basis for zoning, the statutory basis of planning in Washington State, and early planning statutes. Constitutional issues in land use planning.
- 7:10 – 7:40 THE GMA AND COMPREHENSIVE PLANNING BASICS.....Anne Fritzel, AICP**
Overview of the Growth Management Act requirements for local planning. Development regulations, capital facility spending, and other tools for implementing the comprehensive plan. Urban Infill to accommodate growth and Regional Growth Centers.
- 7:40 – 7:50 BREAK**
- 7:50 – 8:20 ROLES AND RESPONSIBILITIES.....Roger Horn**
Roles and responsibilities in the planning process. Legislative vs quasi-judicial decisions, tips for encouraging public involvement, best practices for effective meetings.
- 8:20- 8:50 OPEN GOVERNMENT LAWSRay Liaw, Attorney at Law**
Open Public Meetings Act and Introduction to the Public Records Act.*
- 8:50-9:15 QUESTIONS AND ANSWERS.....All**

** This training meets the requirements of RCW 42.30.205 requiring every member of a governing body to take Open Public Meetings Act training within 90 days of taking an official role, and every four years thereafter, as long as they remain in that role. Attendees will receive a certificate of training.*



Planning Association
of Washington



American Planning Association
Washington Chapter



REGISTRATION: Please register by September 21, by sending an email with your name, organization and title (if applicable) and the location of the short course you wish to attend to shortcourse@commerce.wa.gov or by leaving the same information at 360 725-3064. Registration is not required, but helps for planning purposes; all will be welcome at the event.

SEE ALL UPCOMING IN PERSON COURSES AND VIDEO OPTIONS ON THE SHORT COURSE WEB PAGE AT: www.commerce.wa.gov/serving-communities/growth-management/. Agendas and presentations for past courses will be on the web site for the calendar year.



Directions to Burien City Hall

400 SW 152ND ST Suite 300
Burien, WA 98166
(206) 241-4647

Driving Directions

From I-5:

Take State Route 518 West towards Burien. Once the freeway ends, continue onto SW 148TH ST. Take a left on 4TH AVE SW and head South. City Hall will be on your right. Underground parking access is off of 4th Ave SW. Above ground parking access is off SW 151st St.



City elected officials will earn 3 CML credits in Community Planning and Development
County elected officials will receive 2 core credits towards Certified Public Official Training
For WCIA members, attendance at the Short Course provides COMPACT training credit

For RMSA members, the Short Course meets the requirements of the Land Use Advisory Member Standards
For WSBA members, viewing the video series provides 1 CLE Legal Credit, and 0.75 other credits (Activity # 1011672)

A Short Course on Local Planning: Training citizen planners since 1977

The Short Course is an opportunity for planning commissioners, local government staff, elected officials, and community members to learn about our state's legal framework for planning, comprehensive planning and community development processes, and public involvement in the planning process.

www.commerce.wa.gov/serving-communities/growth-management/

360.725.3064

LOCAL HOST: David Johanson, Senior Planner, City of Burien
davidj@burienwa.gov 206.248.5522

MODERATOR: Anne Fritzel, Senior Planner, Washington Department of Commerce
360.725.3064 Anne.Fritzel@commerce.wa.gov

PRESENTERS: Ray Liaw, Attorney at Law, Van Ness Feldman, LLP
206.802.3840 hrl@vnf.com

Roger Horn, 14-year Olympia Planning Commission member
rogerolywa@yahoo.com

ADDITIONAL TRAINING AND EDUCATIONAL OPPORTUNITIES IN WASHINGTON

Department of Commerce, Growth Management Services <http://www.commerce.wa.gov/serving-communities/growth-management/>. See the Short Course Manual and Videos under the “Short Course on Local Planning” Key Topic.

Municipal Research and Services Center of Washington at www.mrsc.org: See [A Planner’s Pocket Reference](#) at www.mrsc.org/subjects/planning/PocketRef.aspx, which includes glossaries, web links for land use, environment, housing, census, economics, transportation, technical tools, model codes, and land use law.

Washington State Office of the Attorney General Trainings on Open Government, Open Public Meetings Act and Public Records Act training at www.atq.wa.gov/OpenGovernmentTraining.aspx

OUR SHORT COURSE PARTNERS

Planning Association of Washington (PAW) is a statewide, grass-roots, non-profit incorporated in 1963, with the mission to “provide unbiased practical planning education to the citizens of Washington State”. PAW created the Short Course on Local Planning and is a Founding Partner. www.planningpaw.org **Partner since 1980.**

The Washington Cities Insurance Authority (WCIA) is a liability insurance risk pool which supports member risk management through education. WCIA encourages their members to attend the Short Course on Local Planning because it is recognized as a tool for reducing land-use liability. www.wciapool.org/ **Partner since 2009.**

Washington Chapter of the American Planning Association (WA-APA) www.washington-apa.org/ **Partner since 2014.**

Association of Washington Cities (AWC) and the **Risk Management Services Agency (RMSA)** www.awcnet.org/ and www.awcnet.org/PropertyLiability.aspx See **GMA Comp Plan Conversation Starter** videos . www.awcnet.org/ResourcesResearch/GMACompPlanConversationStarters.aspx **Partner since 2015.**

A Short Course on Local Planning: Training citizen planners since 1977

www.commerce.wa.gov/serving-communities/growth-management/ 360.725.3064

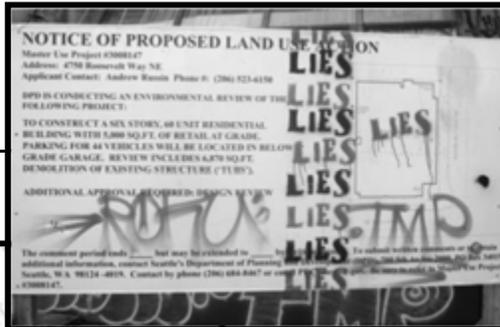


Legal Basis of Planning in Washington

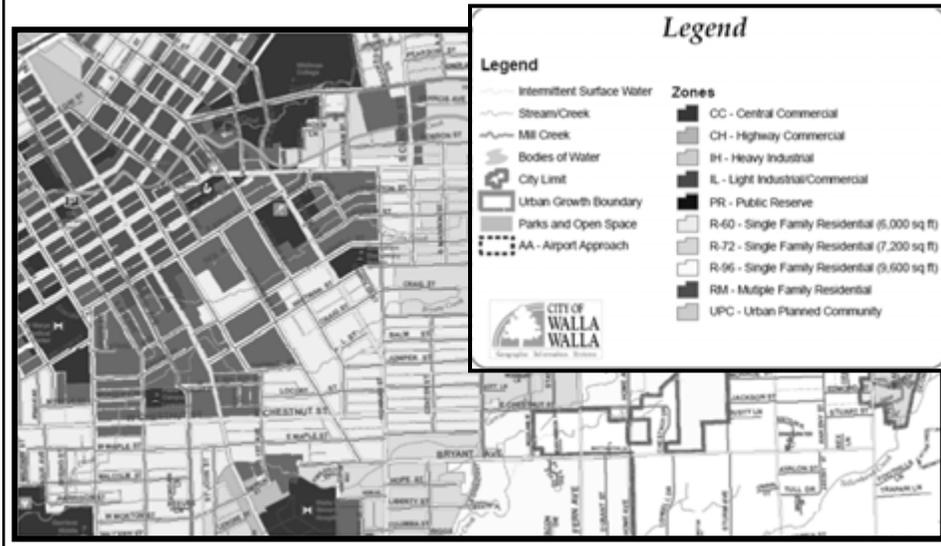
A Short Course on Local Planning

Ray Liaw
September 2016

Land Use Planning



Land Use Planning



Land Use Planning

1. Substantive Legal Issues –
 - What are the bases of planning authority?
 - What are the limits of planning authority?
2. Procedural Legal Issues –
 - How do we exercise planning authority?

Substantive Legal Issues – Constitutional authority for planning

- **Police Powers:** power to protect public health, safety and welfare

Washington State Constitution, Art. 11, Sec. 11

But what about...

- **Property Rights**

- *Euclid v. Ambler Realty*, 272 U.S. 365 (1926) - zoning ordinance classifying use, height, and area (oh my!)
- Restrictions are reasonable extension of police powers
- No due process violation: rational basis for “discrimination”

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Substantive Legal Issues – Statutory Authority

Planning Enabling Statutes:

Planning Commission Act, RCW 35.63

Optional Municipal Code, RCW 35A.63

Planning Enabling Act, RCW 36.70

Charter Form of Government, Art. XI, Sec. 4

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Substantive Legal Issues – Statutory Authority

The Growth Management Act – “GMA” RCW 36.70A

Establishes planning goals and requirements for local jurisdictions, with emphasis on deference to local planning actions

Key emphases:

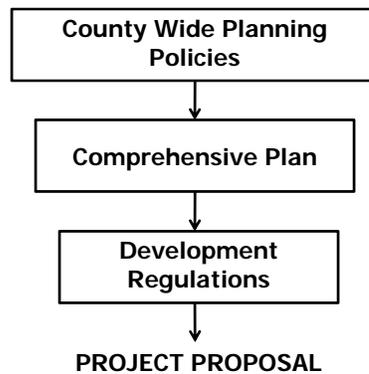
- Limit Sprawl
- Protect Critical Areas
- Conserve Resource Lands

Significant commitment to public participation in local legislative process



Substantive Legal Issues – Statutory Authority

The Growth Management Act – “GMA” RCW 36.70A



Substantive Legal Issues – Statutory Authority

The Shoreline Management Act, RCW 90.58

- Governs “shorelines” and their “shorelands”
- Emphasis on:
 - providing a shoreline location for a defined set of shoreline preferred (i.e. water dependent) uses;
 - accommodating reasonable and appropriate uses;
 - protecting shoreline ecology and natural resources; and,
 - preserving the public's right of access



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Substantive Legal Issues – Statutory Authority

The Shoreline Management Act

Requires jurisdictions to:

- Plan and adopt regulations (Shoreline Master Program), and
- implement a permitting program (Shoreline Substantial Development Permits, Conditional Use Permit)



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Substantive Legal Issues – Statutory Authority

The State Environmental Policy Act – SEPA RCW 43.21C

- Requires environmental review of agency “actions”
- Procedural requirements, with substantive authority to condition or deny a project proposal
- **Steps**
 1. Is SEPA review necessary;
 2. Determine “Lead Agency”;
 3. Evaluate proposal;
 4. Threshold Determination – identify whether there are probable significant adverse impacts (DS, DNS, MDNS);
 5. If DS, review further in Environmental Impact Statement.

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Substantive Legal Issues

Landmark and Historic Preservation

- Local and State efforts to protect historic or significant structures.
- **GMA** overlay: The GMA includes a goal to "Identify and encourage the preservation of lands, sites, and structures that have historical, cultural, and archaeological significance." RCW 36.70A.020(13)
- **SEPA** checklist
- Local governments can establish a historic preservation commission and historic preservation ordinance to control plans for development.



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Substantive Legal Issues – Federal Overlay

- **Clean Water Act / National Pollution Discharge System**

- Local stormwater permits
- Low impact development regulations

- **Endangered Species Act**

- **FEMA - NFIP**



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Substantive Legal Issues – Limits on planning

- “Due Process” (Substantive and Procedural)
- “Takings”
 - 42 U.S.C. §1983 – governmental deprivation of federal constitutional or statutory right
 - Washington State Constitution, Art. 1, Sec. 16.
- First Amendment
- Vesting
- Impact Fees - RCW 82.02.020
- Damages - RCW 64.40.020

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Substantive Legal Issues – Constitutional limits on planning

▣ Procedural Due Process

- Notice and Opportunity to respond before deprivation of property right

▣ Substantive Due Process

- **Nexus** – logical connection between problem identified, municipal interest, and regulated solution
 1. Does the regulation seek to achieve a legitimate public purpose?
 2. Are the means used reasonably necessary to the stated objective?
 3. Is the chosen regulation unduly burdensome on the land owner?

▣ Void for Vagueness – variant of due process

- Regulations must be specific enough to provide fair warning
- Avoid arbitrary and capricious enforcement

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Substantive Legal Issues – Constitutional limits on planning

▣ Takings - “No private property shall be taken or damaged for public or private use without just compensation.”

- Categorical Takings – physical occupation or complete deprivation of property rights
- Regulatory Takings (“Inverse condemnation”)
 - Does regulation advance legitimate state interest
 - Economic impact
 - Interference with investment-backed expectations

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Substantive Legal Issues – Constitutional limits on planning

■ First Amendment –

- No laws “abridging the freedom of speech”
- Regulations that distinguish speech on the basis of its content are subject to strict scrutiny => must be narrowly tailored to serve compelling state interests.

■ Reed v. Town of Gilbert- 135 S.Ct. 2218 (2015)

- *I saw the sign...*
- Sign codes regulating location, size, quantity of signs and their structure based on content subject to strict scrutiny.

■ So now what?

- Commercial billboards? Political signs? Real estate signs? Signs held by panhandlers?

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Substantive Legal Issues – Constitutional limits on planning

Vested Rights Doctrine

- “Vesting” in Washington refers to the right to develop property under the land use regulation in effect at the time of filing a complete development application
 - Based on principles of fairness and due process
- When does a regulatory change apply to new development? It depends ...
- Statutory Right
 - Building permit, Subdivisions, Development Agreements (executed)
 - To what regulations does the application vest?
- Local Ordinance may grant broader rights

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Substantive Legal Issues – Statutory limits on planning

IMPACT FEES / Exactions, RCW 82.02.020

- Generally prohibits “any tax, fee, or charge” on the construction of buildings or development, subdivision, classification, or reclassification of land
- Exceptions:
 - 82.02.050 allows GMA planning cities and counties to impose impact fees.
 - Also, exception for “voluntary agreements” that allow a payment in lieu of a dedication of land or to mitigate a direct impact that has been identified as a consequence of a proposed development, subdivision, or plat.

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Substantive Legal Issues – Statutory limits on planning

RCW 64.40.020 Damages

- Action for monetary damages based on agency actions which are:
 - Arbitrary and capricious
 - Unlawful or exceed lawful authority
 - Untimely – based on within time limits established by law
- Culpability:
 - Final decision of the agency must be made with knowledge of its unlawfulness or that it was in excess of lawful authority (or it should reasonably have been known to have been unlawful)
 - *Mission Springs v. City of Spokane*, 134 Wash.2d 947 (1998).

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Procedural Legal Issues

Legislative Actions

- Adoption of values, standards or rules that affect an entire area:
 - E.g., Adoption of Comprehensive plan or development regulations

Administrative Actions

- Actions that enforce or administer legislative actions on a case-by-case or site-specific basis
- Includes “quasi-judicial” actions

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Procedural Legal Issues – Local Legislative Process

Process for Legislative Actions

- GMA (comp plans and development regulations) and SMA (Shoreline Master Program)
 - Planning Commission Makes Recommendation
 - Elected Officials Take Action
 - Emphasis on Public Participation
- **Appeals:** Growth Management Hearings Board
 - One board divided into three regional panels
 - Timing: Appeals must be filed within 60 days of publication

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Procedural Legal Issues – Local Administrative Process

Process for Administrative Decisions

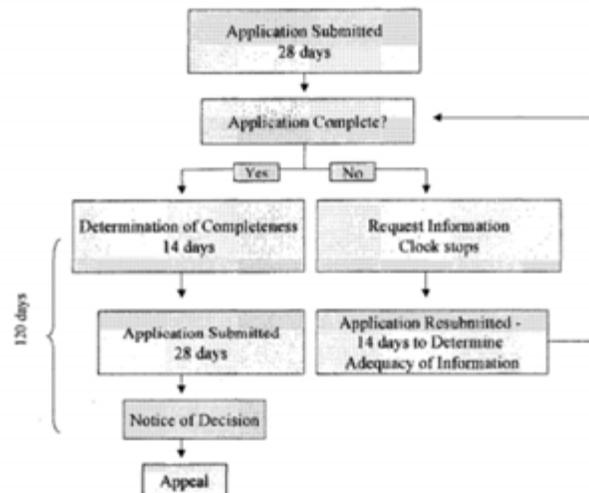
- Permitting decisions

Regulatory Reform (1995) RCW 36.70B

- Spells out the permitting procedure and imeframes very precisely.
- With few exceptions, everything requires:
 - Notice of completeness.
 - Notice of application to public.
 - Comment period.
 - Notice of Decision.
 - Only one open record hearing and one closed record hearing.
 - More integration of SEPA

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Procedural Legal Issues



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Procedural Legal Issues

Appeals of Administrative Actions: Land Use Petition Act (LUPA) RCW 36.70C

- Applies to final “land use decision”
- Requires “exhaustion of administrative remedies”
- Strict timeframes for appeal – 21 days from final decision
- Emphasis on certainty and finality in the land use context.

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Open Public
Meetings Act
(RCW 42.30)

Public Records
Act
(RCW 42.56)

Appearance of
Fairness
Doctrine
(RCW 42.36)

Open Government Laws

A Short Course on Local Planning

Ray Liaw
April 20, 2016

Open Public Meetings Act – Purpose

- Passed in 1971 (“Sunshine Laws”)
- RCW 42.30.010 Legislative Declaration
 - People do not give public servants the right to decide what is or isn’t good for them to know.
 - No backroom dealings => multimember bodies must deliberate and act in the open.

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Open Public Meetings Act – Does it Apply?

All meetings of the governing body of a public agency shall be open and public

and all persons shall be permitted to attend any meeting of the governing body of a public agency, except as otherwise provided in this chapter.

RCW 42.39.030

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Open Public Meetings Act – Does it Apply?

Key Questions

- Is it a “**public agency**”?
- Is it a “**governing body**”?
 - Who created the group?
- Is it a “**meeting**”?
 - Who of group is going to be present?
 - Exactly what are they going to be doing?
- Is the action **exempt** from OPMA?

Not always good to assume a group or a meeting is subject to OPMA

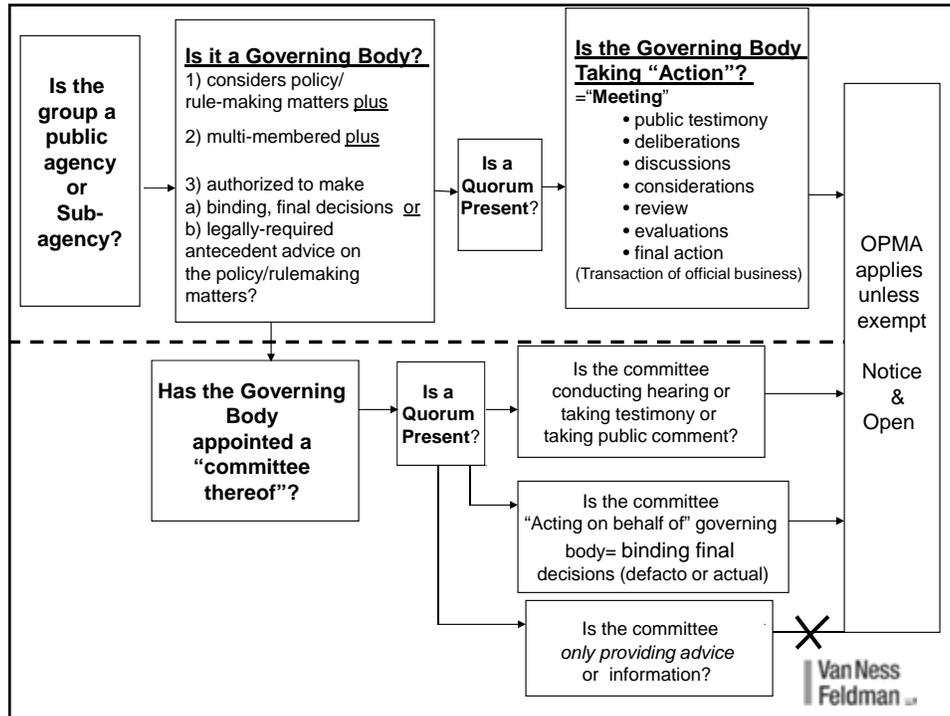
- Creates expectations by the public
- Don't treat group's actions as subject to OPMA if they are not

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Open Public Meetings Act – Exemptions

- Different from Executive Sessions
- Certain activities are **exempt** from OPMA
 - Those governed by the Administrative Procedures Act (APA)
 - Quasi-Judicial matters
 - Certain licensing/permitting decisions
 - Certain collective bargaining activities

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Open Public Meetings Act – Basic Requirements

- **Notice** (regular, special, or cancellation)
 - Advertise as to time, place, and agenda items
 - Special: 24-hour notice to governing body, media on file, website, posted at main entrance
- **Agenda** – the special meeting issue
- **Public attendance** must be allowed unless executive session
- **Record minutes**

Open Public Meetings Act – Anyone can attend a meeting

- Reasonable rules of conduct can be set
- Public comment period not required
- Cameras and tape recorders are permitted unless disruptive
- Does not require signing in or other conditions on attendance

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Open Public Meetings Act – Executive Session

- Only for topics listed in the OPMA
 - Certain real estate transactions
 - Receive and evaluate complaints or charges against a public officer or employee
 - Review performance; evaluate qualifications of a job applicant
 - Meet with legal counsel relate to litigation matters and agency enforcement actions
- Before executive session, presiding officer must announce the purpose and the time that executive session will conclude
- Final actions in public – no secret ballots or decisions in executive session

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Open Public Meetings Act – Meetings in Disguise

Quorum/Action/Meeting?

- Serial non-meetings
 - Emails, Texting, Phone calls
 - Only two-way communications constitute a violation
 - Parties cc'd count toward quorum
 - Staff emails ok, so long as no two-way communication amongst governing body
 - Collective intent to meet and transact the governing body's official business?
- Discussions
 - Retreats, Site Visit, Social Gatherings
 - When in doubt: notice the event as a meeting

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Open Public Meetings Act – Penalties

- \$500 civil penalty against each member (personal liability)
- Costs and attorney fees (except for failure to post agenda on-line)
- Action taken at a meeting null and void (except for failure to post agenda on-line)
- Loss of public trust

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Public Records Act – Purpose

Public Records Act

- Adopted by Initiative (1972)
 - *The people of this state do not yield their sovereignty to the agencies that serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may maintain control over the instruments that they have created. ...*

RCW 42.56.030

- Public records are presumed available to the public
 - *... free and open examination of public records is in the public interest, even though such examination may cause inconvenience or embarrassment to public officials or others.*

RCW 42.56.500(3)

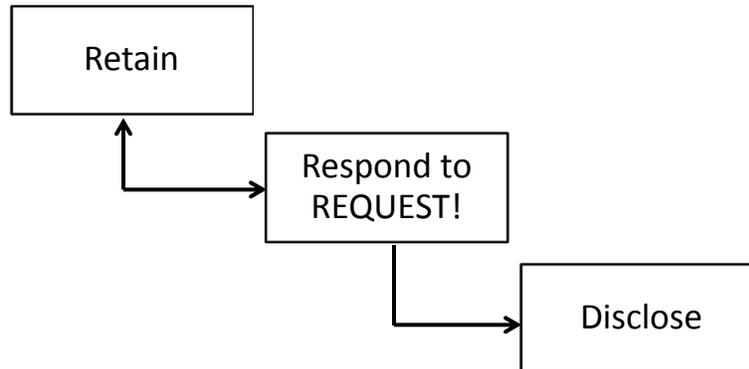
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Public Records Act – A “Public Record” is...

- Any “writing” containing information relating to governmental functions
 - Printed documents
 - Handwritten notes
 - Electronic documents and data
 - E-mail and voicemail
 - Audio and video recordings
 - Metadata
 - Web pages, blog posts
 - Text messages
 - Tweets, Facebook posts
- Prepared, owned, used, or retained by any agency regardless of physical form or characteristic

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Public Records Act – Obligations



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Public Records Act – Retention

What must you keep?

- Primary Records (Original, created or received)
- Secondary Records (Duplicates and Transitory)
 - May be discarded
- Check with Public Records official!

Personal computers

- If you must use your personal email account or laptop, send a copy to your work server

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Public Records Act – Retention

Handheld devices

- Best practice: use your agency-owned handheld device to access agency-related records
 - Smart phones provides a means of remote access to agency email server
 - Retain emails sent/received by agency email server as primary copy
- Beware text messages... (yes, really)

Assume every record you create could be printed on the front page of the newspaper

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Appearance of Fairness Doctrine

- What: impartial decision-making
 - Process must not only be fair, but must appear to be fair to neutral observers
- When: Limited to quasi-judicial land use decisions
- Consequence: Actions taken in violation of doctrine are void

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Appearance of Fairness Doctrine – Grounds for Disqualification

No Ex Parte Communications (RCW 42.36.060)

- Communications between decision-maker and proponent or opponent of proposal
- Outside hearing process or without other party present
- Must occur during pendency of quasi-judicial matter
- Not communication with staff unless proposal is sponsored by the local jurisdiction

May cure appearance of fairness issue by:

- Disclosing substance of communication on record
- Allow parties to rebut substance of communication
- Comment letters ok, if in the record and opportunity to respond

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Appearance of Fairness Doctrine – Grounds for Disqualification

1. Personal Interest

- Financial gain
- Property ownership
- Employment by Interested Person
- Associational or Membership Ties
- Family or Social Relationship

2. Prejudgment of Issues

3. Partiality

Cure? – Recusal

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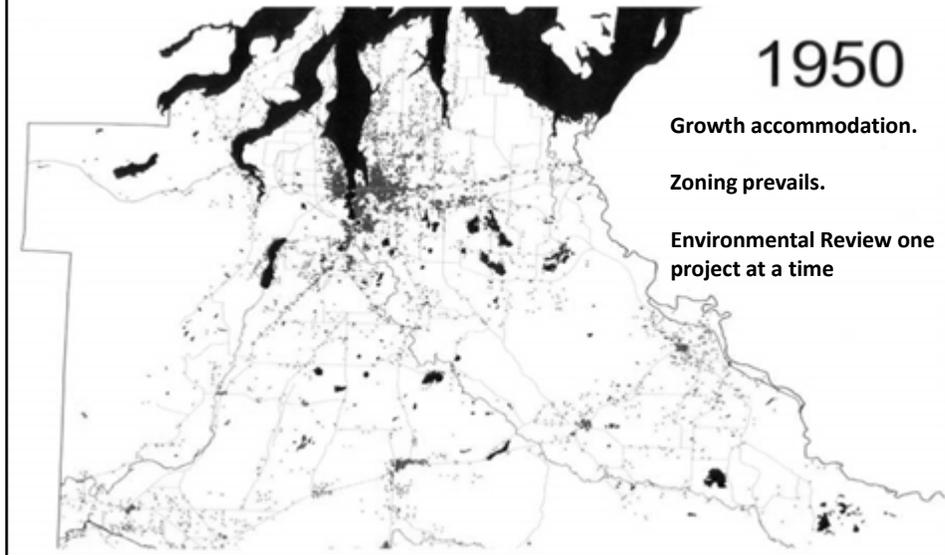
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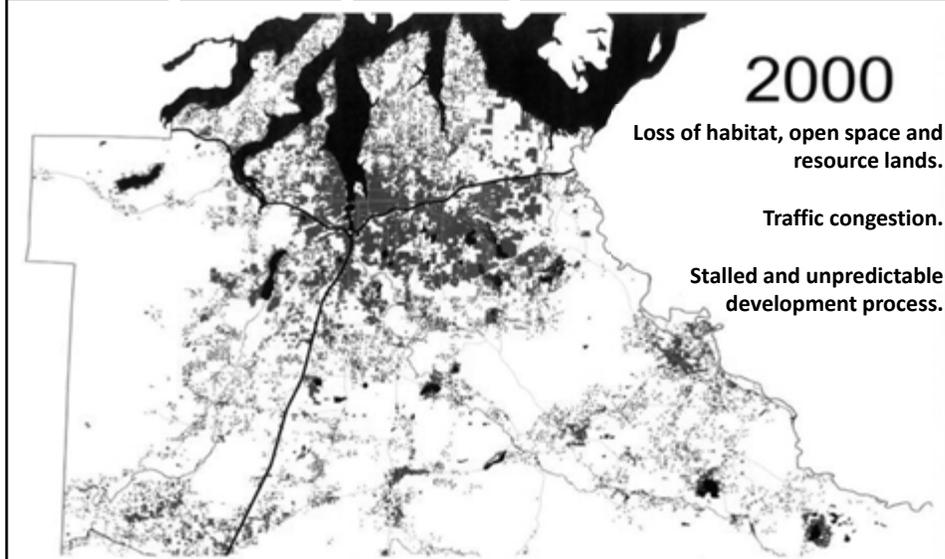
<h1>A SHORTCOURSE</h1>	
<h2>ON LOCAL PLANNING</h2>	
<p>Topics:</p> <ul style="list-style-type: none">• Why plan?• Comprehensive planning• Implementing your plan• Updating your plan• Success stories	<h3>Comprehensive Planning under the Growth Management Act</h3>
	<p>Anne Fritzel Burien Short Course September 28, 2016</p>

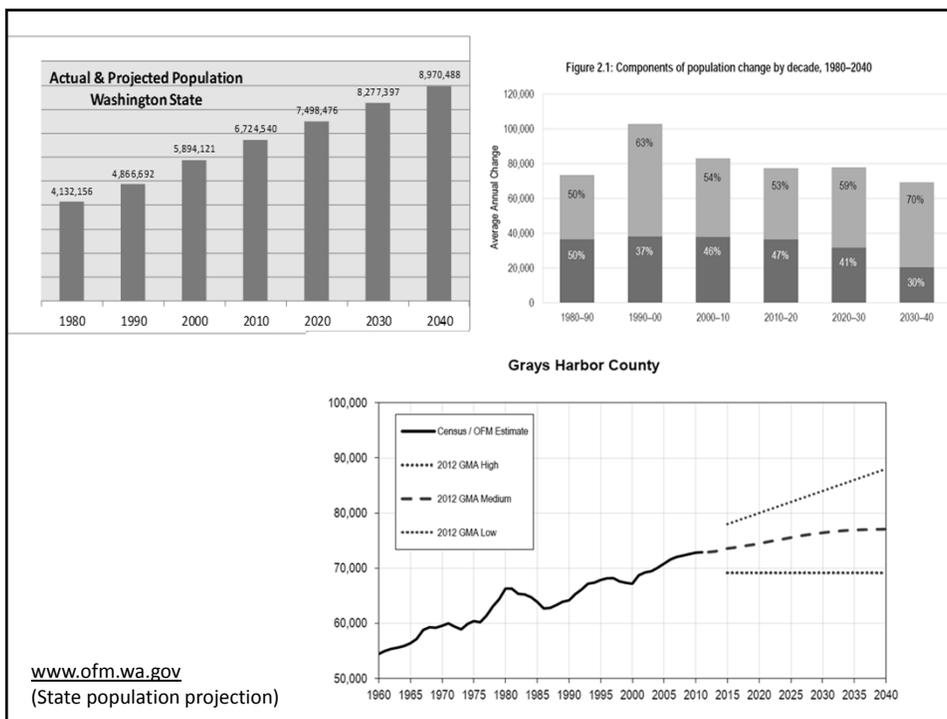
<h2>Why Planning is Important?</h2>	
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	<ul style="list-style-type: none">• Protect the good things about your community• Agree on a shared vision for the future of your community• Identify community needs• Identify strategies to implement the vision and meet needs• Agree on local spending priorities• Build your sense of community
	<p>2</p>

Why Planning is Important:



Why Planning is Important





Why a Growth Management Act (GMA)?



Between 1990 and 2010, our state's population grew from 4.1 to 6.7 million people. We are expected to reach 9 million by 2040. (OFM)

The GMA was adopted in 1990 as a statewide planning framework to:

- Address uncoordinated development and urban sprawl
- Manage threats to the quality of life in Washington
- Require local planning, guided by state law, and regionally enforced

RCW 36.70A

14 GMA Goals

RCW 36.70A.020

- Encourage compact urban growth
- Reduce sprawl
- Encourage coordinated, multimodal transportation
- Encourage affordable housing
- Encourage economic development
- Protect property rights
- Predictable permitting
- Maintain natural resource industries
- Retain open space, enhance recreation
- Protect the environment
- Encourage citizen participation
- Ensure availability of public facilities and services
- Encourage historic preservation
- Manage shoreline development

7

The Land Speaks First



All counties must **designate and conserve natural resource lands** of long-term commercial significance.

- Agricultural lands
- Forest lands
- Mineral resource lands

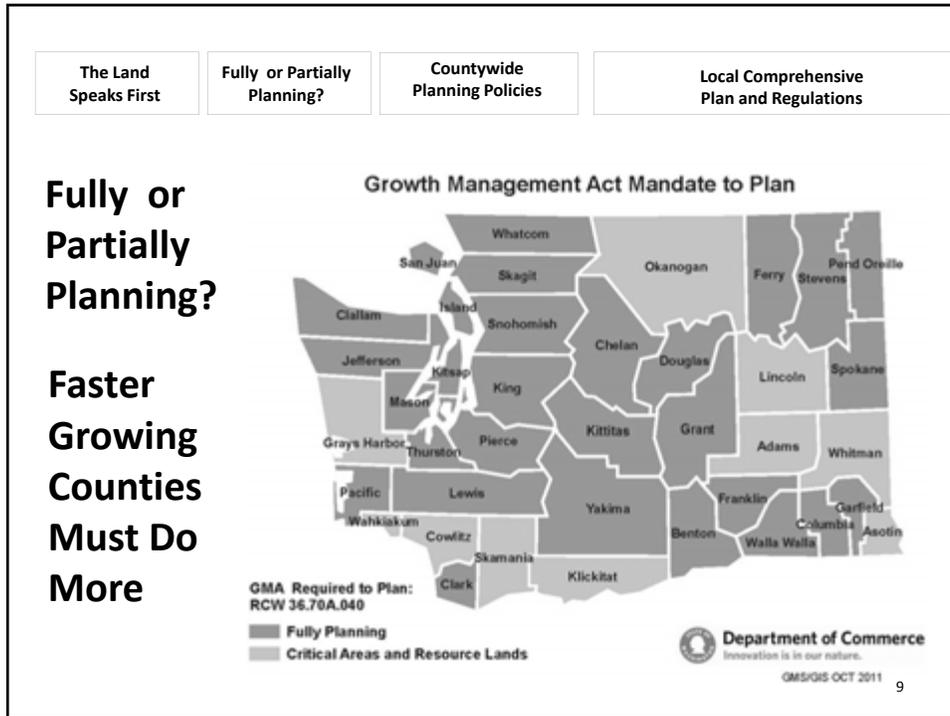
RCW 36.70A.170



All jurisdictions must **designate and protect environmentally critical areas**. "Best available science" must inform regulations that protect the functions and values of:

- Frequently flooded areas
- Geologically hazardous areas
- Aquifer recharge areas
- Fish and wildlife habitat conservation areas
- Wetlands

RCW 36.70A.172



Countywide Planning Policies

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Regional framework to:

- Plan for future growth and address countywide population projections from the State Office of Financial Management.
- Designate and plan for urban growth areas and expansions to designated urban areas
- Plan for countywide facilities such as highways or airports
- Consider affordable housing needs
- Plan for countywide economic development

Puget Sound region required to have multicounty planning policies (Vision 2040).

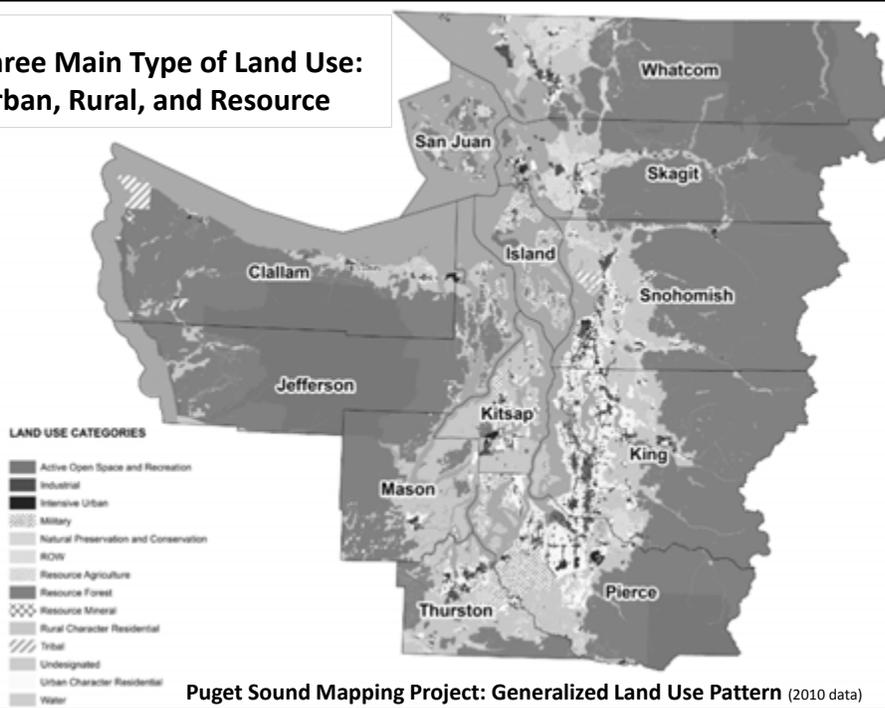
Washington's Urban Growth Areas

Fully planning counties must work with the cities to designate existing and future urban growth areas.



11

Three Main Type of Land Use: Urban, Rural, and Resource



Allocating population – Designating UGAs

Urban areas to contain most of new growth

- UGA size based on 20-year countywide population projections from OFM
- Greater housing / job densities
- Efficient use of facilities/public dollars

Rural areas to maintain rural character

- Low-density development
- Rural service levels
- Agriculture/Forestry



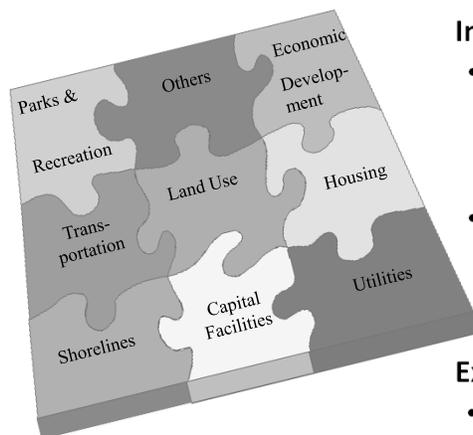
Required Elements of the Comprehensive Plan

RCW 36.70A.070 and WAC 365-196



- **Land Use:** Land uses, stormwater planning, ground water, physical activity
- **Transportation:** Inventory, assessment of current and future needs, bicycle and pedestrian component
- **Housing:** Identifies the character of residential areas, Inventories existing and projected housing needs and types, Identifies sufficient land for all types of housing
- **Utilities:** Inventory, assessment of current and future needs, coordination between providers and land development.
- **Capital Facilities:** Inventory, assessment of current and future needs, coordination of planning affordability analysis of serving the land use plan.
- **Rural (counties only):** Define and protect rural character.

The Plan Must Be Coordinated and Consistent



Internal consistency

- Is the plan based on the same set of assumptions? Do the plan elements all tell the same story?
- Can adequate public facilities be provided with planned development? (concurrency)

External consistency

- Countywide planning policies
- Adjacent jurisdictions

15

Adopting the Comprehensive Plan



Plan Adoption Process

- Public outreach early and often
- Review by Planning Commission
- Complete SEPA environmental review
- 60-days notice to state before adopting
- City or County Council must adopt the comprehensive plan

Plan Updates and Appeals

- Can be amended only once per year
- Must be updated every 8 years
- Appealable within 60 days to a regional Growth Management Hearings Board

www.gmhb.wa.gov

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Implementing your Comprehensive Plan:

- *Development regulations set standards for how development occurs.*
- *Capital Improvement Plans (CIP) set priorities for local infrastructure investments.*
- *Other programs.*


Department of Commerce

Development regulations set standards for development

Development regulations..... specific controls placed on development or land use activities by a county or city. . . must be consistent with and implement comprehensive plans WAC 365-196-800



- **Zoning**
- **Critical area regulations**
- **Public works standards**
- **Subdivision regulations** set out the process for dividing land and ensure “adequate provisions” for utilities, parks, schools, and other requirements of development.
- **Other regulations** such as design standards, signs, landscaping, and parking regulate appearance, health, and safety within the community.

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Capital Facilities: What can we afford?



Level of Service: Local expectation for a facility as development occurs.

- Required for transportation facilities.

Concurrency programs ensure that transportation and other facilities keep pace with growth.

- If a new development would decrease system level of service, the development must be denied, or the levels of service must be reassessed.

Reassessment: If revenues can't pay for needed facilities over the life of the plan, the land use element must be reassessed.

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Other programs can implement comprehensive plan goals

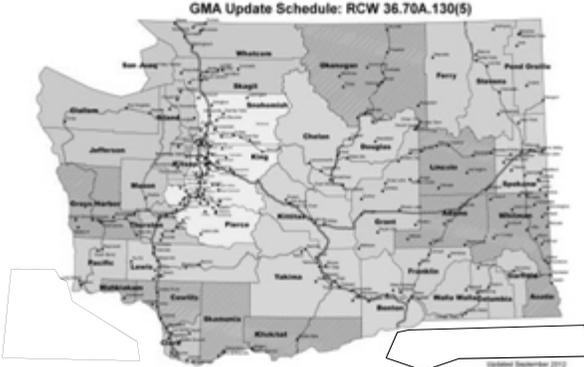


- Interlocal agreements
- Planned action (Upfront environmental review of a sub-area)
- Streamlined development process for specific types of development
- Incentives such as tax exemptions for community benefits such as Open Space or Multifamily Housing
- Impact fees
- Transfer of development rights.
- Volunteer programs

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Updating your Comprehensive Plan:
Considerations for the periodic review and update

 **Department of Commerce**

Grant and Loan Programs Requiring Update Completion:	Update is due June 30th of:
<ul style="list-style-type: none">• Public Works Trust Fund• Drinking Water State Revolving Fund• Centennial Clean Water Fund• Recreation and Conservation Office• Pre-Disaster Mitigation Grants	<p>GMA Update Schedule: RCW 36.70A.130(5)</p>  <p>2015 2016 2017 2018</p>



What the GMA Requires

RCW 36.70A.130

a) Each comprehensive land use plan and development regulations shall be subject to continuing review and evaluation. . .

b) A county or city shall **take legislative action to review** and, if **needed, revise** its **comprehensive land use plan** and **development regulations** to ensure the plan and regulations comply with requirements of this chapter

c) **Legislative action means the adoption of a resolution or ordinance following notice and a public hearing indicating at a minimum, a finding that a review and evaluation has occurred and identifying the revisions made, or that a revision was not needed and the reasons therefore.**

- Review**
 - ✓ *Comprehensive Plan*
 - ✓ *Development Regulations*
 - ✓ *Critical Areas Ordinance*
 - ✓ *Resource Lands*
 - ✓ *Urban Growth Areas*
- Revise if Necessary**
- Legislative Action**



Success Stories

- ✓ **Commit to the idea**
- ✓ **Put it in the comprehensive plan**
- ✓ **Dedicate or find the resources**
- ✓ **Make it happen**

How effective planning can make your jurisdiction's vision real.

Planned Actions as Economic Development Tools

- Subarea plan that integrates GMA and SEPA
- Several dozen adopted, including:
 - Everett Paine Field area (Boeing 787)
 - Vancouver downtown (Esther Short Park)
 - Tacoma Downtown



Hoquiam Residential Sidewalk Partnership Program

2005: Hometown Hoquiam process identifies sidewalk repair as priority for the city.

2008: Residential Sidewalk partnership Program began

By 2010:
 City had spent \$75,000 hiring summer teams to replace sidewalks.
 Homeowners invested \$35,000 paying about \$10 per linear foot.
 Saved more than \$100,000.



Bicycle Corridors in Olympia

Transportation Policy PT25.4 *Explore the use of bicycle boulevards to support novice and family bicycling - streets with low volumes and special accommodations for bicycling.*



Supporting Local Farms

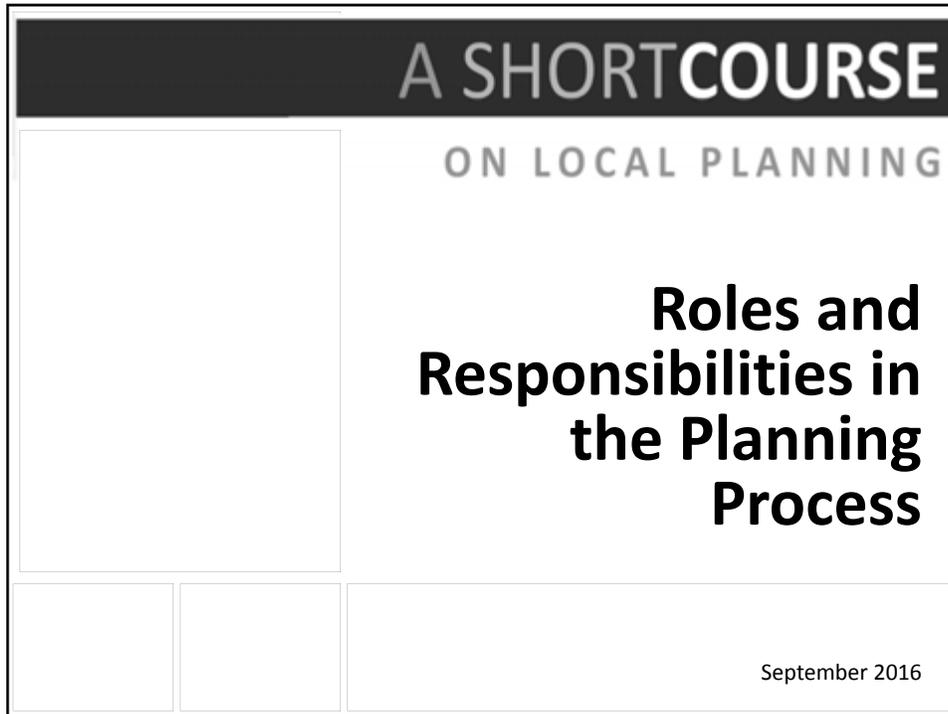
- Agri-tourism
- Shellfish protection areas
- Farmer's markets



Successful Planning



- Regulations are clear and flexible and reflect the goals of the plan
- Incentives encourage the type of development envisioned in the plan
- A clear process for reviewing development proposals against the plan and regulations
- Leadership is involved at all levels



Key State Planning RCW Chapters		
Ch. 35.63 – Planning Commissions (1935)		
– May be superseded in counties, code cities, and first-class cities		
Ch. 36.70 – Planning Enabling Act (1959)		
– Applies to county governments		
Ch. 35A.63 – Planning/Zoning in Code Cities (1967)		
Ch. 36.70A – Growth Management Act (1990)		
– All counties must protect resource lands, critical areas		
– Fast-growing counties/cities within them must fully plan		
– Other counties may opt in to full planning		

Roles in Planning

Elected Officials

Planning Commission

Planning Staff

Hearing Examiner

Other Advisory Bodies

**General Public, Business Community,
Developers, Other Groups**

Additional Info

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Elected Officials – Long-Range Planning

Key leaders and decision makers

Appoint/remove planning commissioners

Meld ideas from citizens, planning commission, staff

Finalize and adopt long-range plan goals and policies

- Comprehensive Plan
- Shoreline Master Program
- Capital Facilities Element
- Downtown/Subarea Plans

Communicate Vision

Additional Info

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Elected Officials – Implementing Plans

Establish/Update planning code

- Critical Areas Ordinance
- Design Requirements and Guidelines
- Zoning

Funding decisions

- Operating budget
- Capital budget/infrastructure programs (Capital Facilities Plan)

Action Plan/Implementation Strategy

- May include actions and performance measures

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Planning Commission – Creation/Statutory Powers and Duties

May be created by legislative body by ordinance

Advise administrative officer or legislative body

Assemble/analyze data

Prepare/amend comprehensive plan

- Influences the orderly development of land and building uses in city and environs
- Prepared as a whole or in successive parts
- Must address transportation and land use
- Hold at least one public hearing

Make recommendations on zoning and development regulations

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Planning Commission – Other Responsibilities

Review/develop other planning documents

- Shoreline Plan
- Capital Facilities Plan
- Downtown Strategy
- Implementation Strategy
- System Plans

Review and recommend code updates

Make quasi-judicial decisions on rezones, etc.

Conform to Open Public Meetings Act and Appearance of Fairness Doctrine

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Planning Staff

Play key role in:

- Long-range planning
- Code development and development review
- Supporting Hearing Examiner, Planning Commission, and City Council
- Legislative and quasi-judicial actions

Implement adopted policies and development regulations

Provide citizens with technical assistance and guidance regarding permits

Enforce codes

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Hearing Examiner – Creation/Functions

Conducts hearings on quasi-judicial land use issues

- Allows legislative and advisory bodies, including planning commissions, to concentrate on legislative activities
- Legally defensible quasi-judicial decisions reduce city's liability exposure
- Alternative to Planning Commission conducting hearings

Examples of case types

- Parcel-specific rezones, conditional uses, variances, subdivision, shoreline permits, or any other class of applications pertaining to development of land or land use
- Appeals of administrative decisions or determinations, including SEPA

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Other Advisory Groups

Provide informed advice from a citizen perspective to City Council

Understand and support comprehensive plan goals and strategies

Focus on key projects

May solicit/develop funding for implementation

Communicate with their members and others in the community

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General Public/Business Community/Developers/Other Groups

Can provide detailed, historical input

**Offer different perspective on the “big picture”
or public interest**

**May identify regulations and policies that are
great in principle but difficult to achieve**

**Can help local officials better understand
markets, market demand, and permit processes**

**Media offers direct communication link to the
larger community**

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2. Land Use Planning Decisions

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Types of Decisions

Legislative – Making the rules

- Developing and adopting policies and development regulations

Quasi-Judicial – Acting as a judge

- Reviewing and making recommendations or decisions on permit applications

Administrative – Applying the rules

- Staff review of land development applications

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Characteristics - Legislative Issues

Matters of policy

- Examples: Amendments to the zoning code or comprehensive plan

Hearings less formal than quasi-judicial ones

Does not involve legal rights of specific, private parties in a contested setting

Affects a wider range of citizens

Less strict rules about interactions with public

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Characteristics - Quasi-Judicial Hearings

Subject to Appearance of Fairness Doctrine

Must be procedurally fair

Must appear to be conducted by impartial decision-makers

Applies only to local land-use actions

Decision has greater impact on limited number of persons or property owner

Policy application rather than policy setting

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Hearing Examiner – Decisions

Alternative legal effects of decisions

- Recommendation to legislative body
- Administrative decision appealable to legislative body within a specified time limit
- Except in case of rezone, may be considered final decision of legislative body

Decision requirements

- Must include findings and conclusions based on the record
- Must set forth manner in which decision would carry out and conform to city's comprehensive plan and development regulations
- Shall be rendered within 10 working days following conclusion of all testimony and hearings (unless applicant and hearing examiner agree to longer period)

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Administrative Project Review Process
Per 36.70B RCW – Land Project Review (1995) - GMA

- Combines environmental and land use review**
- Determine if application complete - 28 days**
- Notify public of complete application – 14 days**
- Public comment period – 14 to 30 days**
- May schedule one open record hearing**
- Determine if application meets requirements in development regulations – 120 days**
- Appeal allowed per 36.70C RCW**
- Non-GMA governments may use these provisions**

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3. Effective Public Involvement

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Public Participation is Essential

Provide for early and continuous public participation

Make use of surveys and social media

Allow the public to generate ideas at workshops and open houses

Keep the public informed

Hold multiple hearings as complex plans develop

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Tips for Members of the Public

Planning processes are a marathon, not a sprint

Stay informed; don't drift in and out

Attend meetings versus letters and e-mails; better yet, do both

Participating is more effective than just signing a petition

Fundamental choices are made at the time of planning, not permitting

20

Tips for Assisting Members of Public

Provide opportunities to discuss issues in alternative settings

Help people through the public hearing process

Be respectful and patient with:

- Those uncomfortable with public speaking
- Those who are angry or perpetually challenging city government
- Colleagues who may not agree with you or understand your perspective

Be conscious of your body language

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4. Best Practices for Effective Decision Making

22

Discussion and Deliberation

Discuss why you support approval or disapproval of a proposed action; base reasons on criteria

Give all members the opportunity to contribute to the discussion

Work together to come to a group decision

Staff should prepare draft findings and conclusions documenting the reasons for the motion

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Other Best Practices

Remain free of political influence

Always consider views of public

Establish strong relationship with Council/Board/Mayor/County Executive

Create charter for big planning projects

Educate public on important topics

Stick by your principles

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