

ORDINANCE NUMBER 90-98

AMENDMENTS TO THE MASON COUNTY COMPREHENSIVE PLAN AND
DEVELOPMENT REGULATIONS

AN ORDINANCE amending the Mason County Comprehensive Plan, April 1996, and amending development regulations as follows: the Mason County Development Regulations, Ordinance 82-96, Chapter 1.02, Section 1.03.032, Section 1.03.035, and Chapter 1.06; and Title 16 of the Mason County Code, Chapters 16.08, 16.23 and 16.22, under the authority of Chapters 36.70 and 36.70A RCW.

WHEREAS, the Board of County Commissioners held a public hearing on June 24, 1998, to consider the comments of the Planning Commission, the Mason County Department of Community Development and citizens on the proposed amendments;

WHEREAS, these amendments are intended to comply with the Order of the Western Washington Growth Management Hearings Board of December 5, 1996;

WHEREAS, the Mason County Board of County Commissioners formulated its decision after the public hearing and has approved findings of fact to support its decision as ATTACHMENT A;

NOW, THEREFORE, BE IT HEREBY ORDAINED, that the Board of County Commissioners of Mason County hereby approves and ADOPTS the amendments to the Mason County development regulations as compiled in ATTACHMENT B,

DATED this 18th day of August, 1998.


Board of County Commissioners
Mason County, Washington



Mary Jo Cady, Commissioner




John A. Bolender, Commissioner



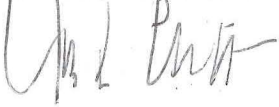
Cynthia D. Olsen, Commissioner

ATTEST:



Clerk of the Board

APPROVED AS TO FORM:



Prosecuting Attorney

Mason County Board of County Commissioners
Comprehensive Plan and Development Regulation Amendments
August 18, 1997

FINDINGS OF FACT

1.

Under consideration is a proposal to amend the 1996 Mason County Comprehensive Plan and some of the related development regulations. The changes are proposed to address the concerns of the Western Washington Growth Management Hearings Board in case #96-2-0023. The changes incorporate amendments made to the Growth Management Act (GMA) in 1997. The packet also includes requests for amendment which were submitted to the county as provided by Title 15 of the Mason County Code.

2.

The county performed a substantial public participation process and the record provides background information on the proposal. Public participation includes public workshops and public hearings before the Planning Commission and a public hearing by the Board of Commissioners. In addition, public participation was provided through the SEPA review process and other written public comment.

3.

The county responded to the order of the state Hearings Board as summarized below:

“1. The County must reassess the rural center classifications in its rural areas to preclude expansion of urban development in the rural areas.” (The Hearings Board order begins each of the following sections.)

The county reassessed all of the provisions for development in the rural lands. Some options provided in the 1996 plan were removed from the plan because they were seen as allowing urban development in areas not designated as urban and as otherwise not provided for in the GMA. While the fully contained communities are intended to be urban areas, they are not “designated” urban growth areas. However, the GMA provides a structure for the fully contained communities; and the option was retained in the plan with some modification to better conform with the GMA. Master planned resorts are also provided for in the GMA and were retained in the plan.

“2. The population projection must be no greater than the high range of the OFM projection.”

The population projection used is the Washington State Office of Financial Management’s High Series population projection for 2014. The High Series is, by definition, an acceptable projection.

“3. The population must be allocated in a way which accommodates urban growth in properly sized UGAs, thus promoting a variety of affordable housing.”

The record shows that the size of each urban growth area is appropriate for the population allocated to it. The allocation of population reverses the historic pattern of the urban areas in Mason County (the City of Shelton) of having a declining share of the population. This reversal is part of the overall vision of the county and city; and it is important in addressing GMA and plan goals such as reducing sprawl, protecting the environment, and promoting affordable housing. The allocation, together with the population reserve for the fully contained community, is seen as an ambitious target to the county and city to attempt.

“4. Rural population centers must accommodate only commercial enterprises which serve neighborhood needs and only industrial enterprises which are resource based.”

The county's allowed commercial and industrial uses in the rural activity centers and rural community centers are intended to comply with the language of the GMA, as amended in 1997. In areas of more intensive rural development, industrial uses need not be resource based and need not be intended to principally serve the rural populations. Commercial and recreational uses may serve tourists, which is an important component of the local economy and future economic development. The size, scale and type of such uses are restricted from what is allowed in the urban growth areas. This is intended to reflect local conditions and the local vision of appropriate uses consistent with a rural area.

“5. Critical aquifer recharge areas in urban growth areas must be adequately protected.”

Critical areas are protected through implementing regulations, not through the comprehensive plan. There are protective policies in the plan, and the county has valid development regulations in place. Those regulations apply to urban growth areas and are presumed valid, although they are currently involved in a separate Hearings Board case.

“6. Urban growth in rural areas must be avoided by consideration of the adoption of mechanisms to preclude new urban development.” and “7. Minimum densities must not be so high and minimum lot sizes so small as to promote urban density in rural areas.”

The amendments have eliminated development that has been identified as urban development from the rural lands, including the rural areas. The amended plan allows for rural development, including areas of more intensive rural development. This is part of how the rural element of the plan harmonizes the goals of the GMA and how the plan and the regulations comply with the GMA.

The overall approach for the Comprehensive Plan

The plan designates resource lands, urban lands, and rural lands. Resource areas are protected. Critical areas are protected. Population growth is allocated to urban areas at a growth rate greater than the existing growth trends, establishing ambitious targets. An additional share of the population growth projection is reserved to new fully contained communities. The compact urban

forms are intended to preserve resource lands and rural lands by directing development away from those areas. Both city and county are working towards the provision of urban services to the urban areas. In addition, the new fully contained communities must provide for a variety of housing, protect the environment, provide for adequate transportation and other public facilities. Development controls in rural lands protect the environment, resource lands, resource industries, and rural character; provide affordable rural housing; and provide a variety of densities through clustering of residential development, transferable development rights and the designation different rural districts. Incentives for clustered development are provided because of clustering's value in preserving open space and resource lands and meeting other goals of the GMA. Development controls limit economic development as little as possible and consistent with other goals.

Rural Lands - the rural areas

Development in the rural areas is limited to development that has rural character. Rural character is defined in the GMA and requires the dominance of the natural (or agrarian) environment over the built environment (houses, stores). As opposed to large lot zoning, traditional development in the rural area in stable and successful agricultural or resource areas allow the creation of small residential lots, allowing the preservation of larger tracts while meeting the needs for family and employee housing. To the citizens of Mason County, and given the county's primarily forested and hilly terrain, the pattern of development allowed in rural areas is consistent with rural character. Support for this position can be found in Lane Kendig's "Performance Zoning" with notes that with such terrain, as little as 60% of open space is adequate to preserve rural character. The development regulations that allow clustering of residential development require a 50% open space. When this is combined with the estimated 16% primary conservation areas (such as wetlands), there is a total of 66% preserved open space in a typical clustered residential development. Land developed at a five acre per dwelling density, or with a 1 to 20 floor area ratio (which limits the building site to 5% of the property) also will retain its rural character.

Cluster development makes rural living an affordable option. The bulk of the open space can preserve its value as farm or forest land, or can be set aside for additional environmental benefit. This pattern promotes several goals of the GMA. By limiting the size of the cluster and providing design requirements, the rural character of the area is preserved.

Rural Lands - the rural activity centers

The areas which were designated as rural activity centers are developed areas. The uses present included those necessary to serve the everyday needs of the residents and those living nearby, as well as catering to tourists and providing jobs. The rural activity centers are "areas of more intensive rural development." The rural activity center provisions contain and control the development by setting boundaries around the areas and controlling the scale and design of the allowed development inside and outside of those boundaries (requirement (5) (c) (i)).

County regulations protect critical areas, ground water and surface water through a series of

ordinances and policies which include the critical area regulations, the storm water management ordinance, the Environmental Health codes, etc (requirement (5) (c) (iv)). The development pattern is established, but the regulations are relatively new. The county may have to take further action to protect water quality. The county is currently reviewing if additional measures are necessary, as is discussed in the Capital Facilities Chapter of the Comprehensive Plan.

These areas add to the variety of permitted densities and uses in the rural lands (requirement (5) (b)) and assist in protecting against conflicts with resource lands by providing for development away from such lands. The county plan and regulations provide a variety of means to protect the resource lands, such as those in the ordinances designating and protecting resource lands, the requirements for open space clusters to provide open space adjacent to such resource lands, and by requiring buffer yards between those land and any other uses. (requirement (5) (c) (v)) In short, these areas and the other existing and proposed policies and regulations comply with the requirements of (d) (i).

These boundaries were developed consistent with the character of the existing community (requirement (5) (d) (iv) (A)). Water bodies and the built environment were among those factors considered (requirement (5) (d) (iv) and (B)). Section lines or property lines were often followed to provide regular and easily identified boundaries (requirement (5) (d) (iv) (C)).

Outside the rural activity center boundaries are rural areas, where sprawl is not allowed by the policies and regulations governing their development (requirement (5) (d) (iv) (D)). Although using these guidelines did result in the inclusion of undeveloped land, that land is specifically provided for in subsection (5) (d) (iv) and will provide the land for the infilling that is clearly the intent of subsection (5) (d).

Previously platted lands in the rural area. Demand for housing is finite and every lot developed absorbs a portion of that demand. While there are platted lots available in the rural lands, many of the old plats were created without regard to the land or environment. Building one house often needs combined lots, which will be more difficult if land supply is restricted. Attempting to force development onto such marginal platted lots by making new land divisions impossible is inconsistent with the environmental goal of the GMA. It seems far better for the environment, general public interest, and goals of the GMA and plan for development to locate on new lots that were created with current environmental, health and safety concerns built into their design. Such restrictions would also limit the affordability of rural housing. The ability to live in rural areas is not intended to be prohibited in the GMA, and the plan attempts to allow it in a reasonable way by balancing the different goals. It is not required or expected that rural land supply be limited to the demand for rural land.

Rural Lands - a variety of residential densities.

The GMA states that: "The rural element shall provide for a variety of rural densities, uses, essential public facilities, and rural government services needed to serve the permitted densities

and uses.” It continues: “In order to achieve a variety of rural densities and uses, counties may provide for clustering, density transfer, design guidelines, conservation easements and other innovative techniques that will accommodate appropriate rural densities and uses that are not characterized by urban growth and that are consistent with rural character.” RCW 36.70A.070 (5)

A variety of rural densities are provided by the standard and maximum densities contained in the development regulations (section 1.03.032). In addition to this, a great variety of lot sizes or densities are provided in the rural lands because of the provisions that allow for clustering of lots and that rely on density controls rather than lot size controls. The variety results from a developer’s ability to maximize the development potential of a site in diverse ways. For instance, ten acres might become a two acre lot and an eight acre lot, for an average density of one dwelling per five acres. If the lot size is five acres, then the only maximization possible is two five acre lots. To get diversity and variety using a minimum lot size system, many different zones are required because there is only one pattern of maximum usage in each zone. This is not the case with the pattern for rural development presented in the plan and regulations.

In addition, the county regulations provide for density transfer from the rural area to the urban area. If the amount of density otherwise allowed can not be met on site and with only the available rural services, then density can be transferred to urban areas, rather than used in the rural areas.

Rural Lands - a variety of uses. The county plan and regulations provide for a variety of appropriate commercial and industrial uses in the rural lands. Resource based, home based and cottage industries are allowed in all the districts. A wider variety of small-scale uses are allowed in areas of more intensive rural development as provided in the rural activity center and rural community center policies and regulations. Rural uses are not defined in the GMA. However, it is clear that rural development includes “a variety of uses” and is required by the GMA. In addition, rural development “does not refer to agriculture or forestry activities that may be conducted in rural areas.” By definition, these uses are not urban growth. The definition clarifies further that areas of more intensive rural development are not urban growth, even though these rural areas include commercial, industrial, residential or mixed uses. They are not limited to serving the local resident population and may serve tourists or simply provide jobs for rural residents. The uses listed as allowed in the Mason County development regulations have all been identified as appropriate uses at a small scale for areas of more intensive rural development.

Rural Lands - essential public facilities. The county plan and regulations provide for essential public facilities to be located through a public review process in any district according to the standards established.

Rural Lands - agriculture and forestry. The county plan and regulations not only permit but also encourage agriculture and forestry activities in the rural lands. It does this through supportive policies, by permitting the uses outright, and by providing right to farm and right to forestry protections to such uses even outside of the designated resource lands.

“8. Open space and recreation areas and transportation and utility corridors must be identified and mapped.”

The revised plan includes a new future open space map, new utility maps, and show all proposed or existing county transportation corridors.

“9. The FEIS must provide an analysis of environmental impacts of the CP and DRs adopted in response to this remand.”

A Final Supplemental Environmental Impact Statement was prepared and adopted for this proposal. Included are responses to all comments received.

“10. The population allocated to the oversized rural centers must be reallocated to the UGAs and the UGAs properly sized to accommodate it.”

The GMA provides that areas of more intensive rural activity may be established. It further provides that these areas are not determined by a land needs analysis. Instead, these areas are constrained within bounds defined by the built environment as evaluated by the local government according to the criteria in the GMA and whatever other criteria the local government chooses to use not inconsistent with the GMA. If the area so bounded is 5% or 200% of the 20 year projected demand for land, that means that the rate of infill is different, not that infill should be prohibited. The GMA recognizes both the existence and the value of these communities in the rural landscape. The GMA also recognizes that certain expectations for rural growth have to be modified for these areas. The review criteria are changed accordingly in RCW 36.70A.070 (5)(d). The proposal reduces the rural activity centers significantly using the criteria established in the GMA with the assistance of detailed maps showing development and with consideration for local circumstances and vision. However, the analysis also shows that there are still significant areas available for infill development. While this available area is greater than the projected need, this is consistent with the GMA and the local vision for the rural lands.

Population growth has been allocated between the urban growth areas and rural lands. Additional population growth has been reserved for new fully contained communities. Within the rural lands population projections have been made for the distribution of population in the different designations. The urban growth areas have been amended consistent with the population allocation. The analysis shows that they are appropriately sized - that is, the land available and land demand are within 4% of each other.

“11. The bonus densities in the rural areas must be limited.”

The bonus densities in rural activity centers have been reduced. In all the rural lands the number of houses in a cluster has been capped and a separation between clusters has been established. It is believed that these changes will provide visual buffers and adequately protect rural character. It was not seen as necessary to reduce bonus densities in the rural area as the provisions are adequate to protect rural character and promote plan and GMA goals. Such a reduction was also seen as counter productive because it would remove or reduce the incentive that developers have

for clustering. It has been shown in many communities with clustering provisions that the provisions are almost unused if there are no or minor incentives. This is discussed in the CTED guide for rural land and in Rural by Design by Randall Arendt. The alternative is to make clustering a mandatory requirement. This was done for resource lands where the need for control of development is greater, but it was seen as unnecessarily restrictive in rural lands. The plan always tries to balance the variety of goals in the plan and GMA.

In addition, the evaluation criteria used to review the eligibility of land divisions for the density bonus provisions have been made mandatory. There should not be any confusion that those criteria must be complied with in order to receive the density bonus.

However, a project cap for clustered land divisions was not adopted. Such a cap could be easily side-stepped by unregulated divisions of land down to 40 acres (16 dwelling units possible), and such a cap would prevent better designed and coordinated land divisions over larger areas. An area-wide cap keeps the full potential of the clustered design from being realized and forces development into less desirable large-lot configurations. An area-wide cap is also unfair to property owners who keep their land undivided until the land is needed, because cluster divisions could only go to the first to apply.

The plan's strong encouragement of clusters for residential development is an attempt to harmonize various goals of the GMA and the plan. The goals of affordable rural housing, of preservation of resource based industries and activity, the provision of open space and recreation, the enhancement of property rights, the protection of the environment, and the more efficient provision of public services are all enabled by a cluster pattern of development. The alternative pattern of large lot standard land divisions promote none of these goals, or any other goal of the GMA, as well as the clustered pattern. The rural clusters are rural development, and thus by definition they are not urban development. The clustered provisions harmonize the goals of the act, fulfill the vision of the community, and incorporate the desires expressed by individual citizens.

4.

The proposal was developed with consideration of guidelines for adopting comprehensive plans, Chapter 365-195 WAC. This can be seen in the many references to the WAC in the record. Compliance can also be seen in the letter of comment from the Washington Department of Trade and Economic Development and the county's response to it. The county's response included amendments to the plan as recommended by the state agency.

5.

A draft Supplemental Environmental Impact Statement (SEIS) was issued by the Department of Community Development as part of the environmental review of this proposal. Comments on that draft were due by June 18, 1998. Comments were received from Warren Dawes and the Department of Fish and Wildlife. The Final SEIS was issued on June 24, 1998. The Department

has reviewed the changes above and has determined that they are within the very broad scope of the material covered during the environmental review process. The substantive changes include the boundary changes and the population reserve. The EIS and SEIS discussed a variety of configurations for these the urban growth areas and rural activity centers from those larger than the final draft to not designating such areas at all (except that a Shelton Urban Growth Area was in all of the alternatives). The population reserve is a return to a prior proposal as presented in the SEIS. The 25% market factor was used in the environmental analysis.

6.

The Board finds that the amendments are consistent with the county-wide planning policies.

7.

The Board finds that the City of Shelton is in agreement with the Shelton urban growth area boundaries.

8.

The Board finds that the proposal addresses the order of the Growth Management Hearings Board, as discussed above.

9.

The Board finds that, with the amendments used to address issues that were raised after the Planning Commission recommendation, the proposed amendments balance the goals of the Mason County comprehensive plan and the goals of the Growth Management Act.

From the preceding findings, it is concluded amendments to the Mason County Comprehensive Plan, April 1996, should be adopted as proposed and moved by the Board.



Chair, Mason County Board of County Commissioners

8-18-98
Date