



San Juan County Community Development & Planning

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Staff Report

TO: SAN JUAN COUNTY COUNCIL

FROM: PETE ROSE, COUNTY ADMINISTRATOR

THROUGH: RON HENRICKSON, DIRECTOR

BY: SHIREENE HALE, SENIOR PLANNER

SUBJECT: ADOPTION OF AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN RELATING TO ESSENTIAL PUBLIC FACILITIES

FOR MEETING OF: NOVEMBER 4, 2008

ISSUE:

- Shall the County Council modify the Comprehensive Plan to bring it into conformance with the requirements of the Growth Management Act relating to essential public facilities (EPFs)?

STAFF RECOMMENDATION: Staff recommends approval of the proposed changes to the Comprehensive Plan in some form, with the understanding that over the next year the County, Town and service providers will work together to further refine the Appendix 2 policies related to essential public facilities. These amendments are necessary to support changes to the County development codes that will be considered in the coming weeks and/or months. Comprehensive Plan changes can however only occur once per year, and those which are not approved by the County Council by November 18, 2008 must wait another 12 months. Alternative amendments which might be considered are included at the end of this report.

While incorporating the Planning Commission recommendations into the ordinance, staff discovered inconsistencies in Comprehensive Plan Section B, Element 3, Section 3.1 (Shoreline Master Program, Goals and Policies, Introduction) relative to compliance with the requirements of the GMA and to coordination with other sections of the Comprehensive Plan and UDC. An amendment recommended by staff is included in the hearing draft of the ordinance. Though this section was not reviewed by the Planning Commission, staff believes the proposed amendment simply clarifies existing requirements and policies, and that it is consistent with the Planning Commission's recommendations. A more detailed explanation is included below under "Background".

BACKGROUND

In 1990 the Washington State Legislature adopted the Growth Management Act (GMA). This statute includes six core requirements, one of which is a mandate that “No local comprehensive plan or development regulation may preclude the siting of Essential Public Facilities” (RCW 36.70A.200) ¹. “Essential Public Facilities include those facilities that are typically difficult to site, such as airports; state education facilities; state or regional transportation facilities as defined in RCW 47.06.140; state and local correctional facilities; solid waste handling facilities; and in-patient facilities including substance abuse facilities, mental health facilities, group homes and secure community transition facilities as defined in RCW 71.09.020”.

Case law clarified this requirement as follows:

- Regulations may not preclude the siting, expansion or operation of Essential Public Facilities (EPFs). “Preclude” means to directly or indirectly render impossible or impracticable. “Impracticable” means incapable of being accomplished by the means available to the proponent. ^{2 3}
- Local government may only require reasonable mitigation of adverse impacts that would not render the siting or system design impracticable. ⁴
- Regulations may not deny a proposed EPF because its impacts are not fully mitigated. ⁵
- EPF siting processes must be fair and timely. ⁶

While our Comprehensive Plan and development codes do not overtly preclude essential public facilities, they were primarily developed for residential and agricultural uses, and they include requirements that some facilities will not be able to meet.

Our approach with these Comprehensive Plan amendments, and the development code amendments that will follow, is to create a special approval process for EPFs that are needed but that are not located in an appropriate land use district, or that cannot meet a development standard. If a facility can meet the requirements that would typically apply, they are required to do so. We attempted to address this issue without making significant changes in land use districts, the goals and policies of the Comprehensive Plan, or the requirements of the County’s Unified Development Code. We also tried to devise a process that a) is flexible enough to deal with the variety of issues that might arise; b) includes requirements, including basic environmental protection standards, to ensure that facilities will

¹ There are 14 Growth Management Act goals but some of these have more weight because they are accompanied by direct mandates. According to Attorney General Alan Copsey there are 6 core requirements: 1) Protect Critical Areas; 2) Protect Resource Lands (commercial farms, forestlands and mineral lands); 3) Concentrate growth in Urban Growth Areas; 4) Concurrency – new growth not allowed without adequate transportation and other facilities; 5) Do not exclude essential public facilities; and 6) Involve the public. Pursuant to the Supreme Court in *Quadrant*, GMA goals do not override these requirements. *DOE/CTED et al v. City of Kent*, 05-3-0034 (Final Decision and Order, April 19, 2006).

² *Port of Seattle v. City of Des Moines*, CPSGMHB #97-3-0014, Order and Finding Noncompliance and Invalidity, May 26, 1998.

³ *King County v Snohomish County*, CPSGMHB #03-3-0011, FDO, October 13, 2003.

⁴ *Central Puget Sound Regional Transit Authority v. City of Tukwila*, CPSGMHB #99-3-0003, Sept. 15, 1999

⁵ *Port of Seattle v. City of Des Moines*, CPSGMHB #97-3-0014, Order and Finding Noncompliance and Invalidity, May 26, 1998

⁶ *King County v Snohomish County*, CPSGMHB #03-3-0011, FDO, October 13, 2003.

be as compatible as possible with existing land uses and the natural environment; c) allows decision makers to balance public costs and benefits; d) includes public involvement and oversight of the process; e) provides certainty that service providers who follow these regulations and procedures will gain approval; f) that can be successfully administered by the County; and g) that consolidates Comprehensive Plan policies on EPFs in one location. This approach is not designed for any particular facility. It is intended to help the array of essential public facilities that may have unavoidable constraints making it difficult for them to expand or relocate.

As previously mentioned, while incorporating the Planning Commission recommendations into the ordinance, staff identified a section of the shoreline policies that are inconsistent with other existing policies and requirements, including a section of the shoreline regulations. If left as is, this does not meet the GMA requirement that codes and policies be internally consistent, it provides no guidance on meeting the core GMA requirements, and it may preclude the code modifications necessary to allow for shoreline essential public facilities. To improve internal consistency and conformance with GMA requirements, staff recommends the Council consider the amendments presented in Section 9 of the ordinance. As proposed, this section would specify that if there is a conflict, the more restrictive requirement applies, and would cross reference essential public facility, resource land and critical area policies in other sections of the Comprehensive Plan. Resource land and Critical Area policies were included because they are affected by the same internal consistency/ GMA compliance problems as the essential public facility requirements.

Because there is not a clear process for Shoreline GMA amendments, it is possible the Department of Ecology will not grant approval of the proposed modifications to the Shoreline policies. The most recent guidance on this was provided in a City of Anacortes State Supreme Court decision on Critical Area regulations, which made it clear that GMA requirements that apply to shorelines are to be a part of the Shoreline Master Program and must be submitted to the Dept. of Ecology for approval. Since this is the only viable alternative we have for amending the shoreline policies, staff suggests we follow the direction provided by the Court, make the necessary amendments, and submit them for approval. If they are denied, this may help motivate the Department of Ecology and the State legislature to develop a clearer process for incorporating GMA requirements into our Shoreline Master Program.

Below, shown in italics, are the sections of the Comprehensive Plan and development code containing the above mentioned conflicts, followed by the amendment proposed by staff.

Comprehensive Plan Section B, Element 2, Section 2.5 (Overlay Districts)

This section of the Land Use Element provides goals and policies in addition to those above for certain land areas and uses which warrant specific recognition and management. Except as otherwise provided in this Section the provisions of an Overlay District shall prevail over any conflicting provisions of this Plan. All other provisions of this Plan shall retain full force and effect within the Overlay District. The following types of Overlay Districts are provided for by this Plan:

SJCC 18.10.050 Applicability.

- A. General. This code provides land use regulations which apply to all land and land use activity and to all structures and facilities within San Juan County. The provisions of this code shall prevail over any conflicting provision of the San Juan County Comprehensive Plan, except as provided in subsection (C) of this section.*
- B. Water and Sewer. All development shall comply with the San Juan County water and sewage disposal regulations (SJCC Title 13), administered by the health and community services department.*
- C. Applicability of Shoreline Master Program. The provisions of this code augment those of the Shoreline Master Program, which consists of the policies in Element 3 of the Comprehensive*

Plan and the regulations in Chapter [18.50](#) SJCC. All developments within the jurisdiction of the Shoreline Master Program must conform with the policies of Element 3 of the plan and shall be subject to Chapter [18.50](#) SJCC. In the event of any conflict between the Shoreline Master Program and other provisions of this code, the more restrictive shall prevail.

SJCC 18.50.010 General.

- A. *Title. This chapter of the Unified Development Code, together with Element 3 of the Comprehensive Plan, and Sections 18.80.110(I)(3), 18.80.110(J)(4), and 18.80.120(D) of this code, is the Shoreline Master Program for San Juan County, Washington.*
- B. *Short Title. The short title of this chapter and Element 3 of the Comprehensive Plan is the “SJC Shoreline Master Program” or “SMP.”*
- C. *Authority.*
 - 1. *The provisions of this section are adopted pursuant to RCW 90.58.140(3) and 90.58.200, the Shoreline Management Act of 1971 (“SMA”), Chapters 173-26 and 173-27 WAC, Element 3 of the Comprehensive Plan, and this Chapter 18.50 SJCC, the San Juan County Shoreline Master Program.*
 - 2. *Liberal Construction. As provided in RCW 90.58.900, the SMA is exempted from the rule of strict construction, and it and the Shoreline Master Program shall be liberally construed to give full effect to the purposes, goals, objectives, and policies for which the SMA and this program were enacted and adopted, respectively.*
 - 3. *Conflicting Policies or Regulations. The SMA and the Shoreline Master Program comprise the basic state and local law regulating the use of shorelines in the County. Unless specifically provided otherwise, in the event that provisions of the Shoreline Master Program conflict with other applicable state or local policies or regulations, the SMA and Shoreline Master Program shall control. Where the Shoreline Master Program is more restrictive than other applicable state or local policies or regulations, the SMA and Shoreline Master Program shall control. Where other applicable state or local policies or regulations are more restrictive than the SMA and/or Shoreline Master Program, such policies or regulations control.*

Following is the amendment proposed by staff:

SECTION 9. *Comprehensive Plan Section B, Element 3 (Shoreline Master Program, Goals and Policies), Section 3.1 (Introduction) shall be amended as follows.*

3.1 INTRODUCTION

3.1.A. Purpose

This element provides goals and policies additional to those of other elements in this Plan and applies to all shorelines of the state which include freshwater lakes 20 acres or larger, the area 200 feet landward from the ordinary high water mark, and marine water areas. It is the intent of this program to manage the use and development of the shorelines of San Juan County, giving preference to water-dependent and water-related uses and to encourage shoreline development and use to occur in harmony with natural conditions. Uses that result in long-term over short-term benefits are preferred. Background information for this element can be found in Appendix 1 of the Comprehensive Plan.

This element is composed of five sections: overall goals and policies which are the foundation of the Master Program and set the priorities and tone of the whole element; the shoreline environments section which designates segments of the shoreline for specific uses; a section with general policies that apply to all shoreline uses and activities; a section with policies that

apply to specific uses of the shoreline; and, the shoreline modification policies section which applies to structural and non-structural modification activities on the shoreline.

3.1.B. Relationship of this Element to the Unified Development Code

The shoreline use regulations which implement the goals and policies of this element are contained in Chapter 5 of the Unified Development Code (UDC). Chapter 5 is essentially Part 2 of the County's Shoreline Master Program with this element of the Comprehensive Plan being Part 1. Except where otherwise stated, the Master Program applicability is coterminous with areas shown on the Official Shoreline Master Program Designated Environments Map. In the event of a conflict between the provisions of the Shoreline Master Program and any other elements of the Comprehensive Plan or chapters of the UDC, the most restrictive requirement Master Program controls.

3.1.C Relationship of this element to goals, policies and regulations necessary to comply with the requirements of the Growth Management Act.

As with all other areas of the County, the goals, policies and regulations for shorelines must comply with the requirements of the Growth Management Act. The core requirements of the Growth Management Act include the requirement to protect Critical Areas and resource lands, to allow for essential public facilities, to concentrate growth in Urban Growth Areas, to require adequate facilities in conjunction with new growth (concurrency), and to involve the public.

To ensure that the Shoreline Master Program and other sections of the Comprehensive Plan and Unified Development Code are internally consistent, and that they comply with the requirements of the Growth Management Act, the following goals and policies are hereby adopted by reference:

i. Comprehensive Plan Appendix 2, Policies for Siting and Design of Essential Public Capital Facilities; and

ii. Section B, Element 2, subsections 2.3.D. (Resource Lands) and 2.5.B. (Critical Areas)

Finally, as with the other "docket" items being considered, legal counsel has advised that final approval of these amendments must occur concurrently with the other docket items on November 18, 2008.

SUPPORTING DOCUMENTS:

In addition to the proposed Comprehensive Plan - Essential Public Facility ordinance recommended by the Planning Commission and legal counsel, the following are attached to this report:

- Comments received as of October 3, 2008 - Exhibit S-12.
- Letter from Randy Gaylord, Prosecuting Attorney - Exhibit S-15.
- E-mail from Randy Gaylord with WAC 365-195-340 – Exhibit S-17.
- Letter from Ed Hale, Utility Manager - Exhibit S-19.
- White paper by Foster Pepper and Shefelman PLLC – Exhibit S-23
- Draft EPF ordinance considered at the Planning Commission hearing (including the proposed changes to the development codes which are not included in this ordinance) - Exhibit S-22.
- Planning Commission draft minutes - Exhibit PC-1.
- Letter from Bill Appel - Exhibit P-2.
- Letter from Eastsound Water and Sewer District - Exhibit A-2.

SUMMARY OF COMMENTS RECEIVED (as of October 10, 2008):

Many of the comments received related to the proposed changes to the development code, which will be considered separately. Those relating to the proposed Comprehensive Plan amendments are summarized below.

1. The list of essential public facilities is too broad. In some cases these facilities will be essential, in other cases not. Without further definition, "Community gathering place" could include things like football stadiums and retail facilities. Neighborhood water and sewer systems could also be considered EPFs. Use the list from the RCWs (or just reference that section) and have a process for evaluating and adding others - so for a facility not on the list, the first step in the process would be determination of whether they are an EPF.
2. The Comprehensive Plan and development regulations were designed to protect us. EPFs have negative impacts. The terms necessary are reasonable need to be defined. Make the list of EPFs as short as possible and include a public process for dealing with these facilities.
3. Concern was expressed about the need for getting goods and services to and from the islands. Some materials (e.g. propane, gas, hazardous materials) cannot go on the ferry. Some County boat ramps and barge landing sites are EPFs. Will this ordinance limit use of these facilities? The County and State need to avoid adoption of regulations that limit the use of these facilities (such as critical area regulations)?
4. Staff spoke with Bob Fritzen (Dept. of Ecology) regarding application of the proposed EPF process to facilities located within Shoreline jurisdiction. To apply to shoreline EPFs, Bob believes the amendments would need to be incorporated into the County's Shoreline Master Program. Unfortunately, WAC 173-26-201(1) severely limits such amendments, and without a change to this section of the Washington Administrative Code, it appears this could only be accomplished as part of a comprehensive update to the Master Program – a costly and time consuming process which exceeds the Counties available resources. A copy of this section of the WAC is attached.
5. The term "necessary", which is included in the description of essential public facilities may be too restrictive (see letter from Eastsound Water and Sewer District).

ALTERNATIVES

Alternatives that could be considered include:

6. In the description of essential public facility in Policy 1, consider replacing the term "necessary public service" with "essential public service", "basic public service", "needed public service" or "reasonably necessary public service".
7. The proposed ordinance reflects the Planning Commission's recommendation that only the facilities specifically listed in the RCWs and WACs be included on our list of essential public facilities. All others, including some facilities that are currently listed in our Comprehensive Plan as essential public facilities, would be required to go through the proposed designation process.

Another option is to retain the existing list of essential public facilities, including the Town of Friday Harbor facilities, so they do not have to go back through an identification process (they were identified during the development of the existing Comprehensive Plan). The list of facilities

specifically mentioned in the RCWs and WACs could be added to this existing list, to bring it up to date with current requirements. This approach would reduce the public resources (both County resources and those of other service providers) that will otherwise be required to redesignate these facilities and to defend any decisions that are appealed.

A potential down side to this approach is that one of the service providers might propose a facility that is not essential, and be able to take advantage of the easier permitting process that will be established for EPFs. If the proposed regulations are adopted however, the applicant would either have to follow the normal requirements, or they would have convince the County Council, in a public hearing, that the proposed facility is “necessary (or needed) to adequately serve the public”. If citizens did not feel the facility was needed, it is unlikely the Council would grant the authorization required to use the proposed essential public facility CUP process.

8. Though staff recommends it be included, the Council could remove the amendment proposed in Section 9 of the ordinance, and consider it after the legislature clarifies the process for bringing Shoreline policies into conformance with GMA requirements. There is however no guarantee when this might occur, and in the mean time we will have a Comprehensive Plan and development code that meets neither the GMA requirement to allow for essential public facilities, nor the requirement that our Comp Plan and development regulations be internally consistent.

Motion:

I move that these deliberations be continued to a time at or after 10:00 a.m. November 18, 2008, in the Council hearing room, and that staff prepare an ordinance incorporating the agreed upon changes for approval at that time.

Prepared by:

Shireene Hale, Senior Planner

ASSOCIATED LAWS, REGULATIONS AND POLICIES

RCW 36.70A.200 Siting of essential public facilities -- Limitation on liability.

(1) The comprehensive plan of each county and city that is planning under RCW [36.70A.040](#) shall include a process for identifying and siting essential public facilities. Essential public facilities include those facilities that are typically difficult to site, such as airports, state education facilities and state or regional transportation facilities as defined in RCW [47.06.140](#), state and local correctional facilities, solid waste handling facilities, and in-patient facilities including substance abuse facilities, mental health facilities, group homes, and secure community transition facilities as defined in RCW [71.09.020](#).

(2) Each county and city planning under RCW [36.70A.040](#) shall, not later than September 1, 2002, establish a process, or amend its existing process, for identifying and siting essential public facilities and adopt or amend its development regulations as necessary to provide for the siting of secure community transition facilities consistent with statutory requirements applicable to these facilities.

(3) Any city or county not planning under RCW [36.70A.040](#) shall, not later than September 1, 2002, establish a process for siting secure community transition facilities and adopt or amend its development regulations as necessary to provide for the siting of such facilities consistent with statutory requirements applicable to these facilities.

(4) The office of financial management shall maintain a list of those essential state public facilities that are required or likely to be built within the next six years. The office of financial management may at any time add facilities to the list.

(5) No local comprehensive plan or development regulation may preclude the siting of essential public facilities.

(6) No person may bring a cause of action for civil damages based on the good faith actions of any county or city to provide for the siting of secure community transition facilities in accordance with this section and with the requirements of chapter 12, Laws of 2001 2nd sp. sess. For purposes of this subsection, "person" includes, but is not limited to, any individual, agency as defined in RCW [42.17.020](#), corporation, partnership, association, and limited liability entity.

(7) Counties or cities siting facilities pursuant to subsection (2) or (3) of this section shall comply with RCW [71.09.341](#).

(8) The failure of a county or city to act by the deadlines established in subsections (2) and (3) of this section is not:

(a) A condition that would disqualify the county or city for grants, loans, or pledges under RCW [43.155.070](#) or [70.146.070](#);

(b) A consideration for grants or loans provided under RCW [43.17.250](#)(2); or

(c) A basis for any petition under RCW [36.70A.280](#) or for any private cause of action. [2002 c 68 § 2; 2001 2nd sp.s. c 12 § 205; 1998 c 171 § 3; 1991 sp.s. c 32 § 1.]

NOTES:

Purpose -- 2002 c 68: "The purpose of this act is to:

(1) Enable the legislature to act upon the recommendations of the joint select committee on the equitable distribution of secure community transition facilities established in section 225, chapter 12, Laws of 2001 2nd sp. sess.; and

(2) Harmonize the preemption provisions in RCW [71.09.250](#) with the preemption provisions applying to future secure community transition facilities to reflect the joint select committee's recommendation that the preemption granted for future secure community transition facilities be the same throughout the state." [2002 c 68 § 1.]

Severability -- 2002 c 68: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2002 c 68 § 19.]

Effective date -- 2002 c 68: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 21, 2002]." [2002 c 68 § 20.]

Intent -- Severability -- Effective dates -- 2001 2nd sp.s. c 12: See notes following RCW [71.09.250](#).

WAC 365-195-340 Siting essential public facilities.

(1) **Requirements.** Each comprehensive plan shall include a process for identifying and siting essential public facilities.

(a) Essential public facilities include those facilities that are typically difficult to site, such as airports, state education facilities, state and local correctional facilities, state or regional transportation facilities, solid waste handling facilities, and in-patient facilities including substance abuse facilities, mental health facilities, and group homes.

(b) The office of financial management shall maintain a list of those essential state public facilities that are required or likely to be built within the next six years. Facilities may be added to this list at any time.

(c) No local comprehensive plan may preclude the siting of essential public facilities.

(2) **Recommendations for meeting requirements.** Each comprehensive plan should include a process for siting essential public facilities. Where such facilities are of a county-wide or statewide nature this process should conform to the applicable county-wide planning policy.

(a) Identifying facilities.

(i) In the identification of essential public facilities, the broadest view should be taken of what constitutes a public facility, involving the full range of services to the public provided by government, substantially funded by government, contracted for by government, or provided by private entities subject to public service obligations.

(ii) The comprehensive plans should contain local criteria for the identification of essential public facilities, focusing on the public need for the services involved. There are three sources from which local lists of essential public facilities should be drawn:

(A) The state list. This is the list of essential state public facilities that are required or likely to be built within the next six years maintained by the office of financial management.

(B) The county-wide list. This is a list of essential public facilities of a county-wide or regional nature, made part of or pursuant to the county-wide planning policies adopted by counties in consultation with cities.

(C) The city or county list. This is a list of locally essential facilities, adopted by each planning jurisdiction. It is irrelevant to this listing that a facility may be funded by or operated by the state or another public or private entity other than the planning jurisdiction. The critical concern is that the facility be needed locally.

(iii) Not all essential public facilities are always difficult to site. Conversely, sometimes essential public facilities of a type usually easy to site will present siting difficulties. The initial step in the siting process should be a determination as a threshold matter of whether the essential public facility in question presents siting difficulties.

(A) If the facility does not present siting difficulties, it should be relegated to the normal siting process otherwise applicable to a facility of its type.

(B) If the facility does present siting difficulties, it should be subjected to the siting process called for below.

(b) Siting process.

(i) The comprehensive plan should describe the components of a siting process for essential public facilities which are difficult to site to be implemented on a case-by-case basis through development regulations.

(ii) The process should provide for a cooperative interjurisdictional approach to siting of essential public facilities of a county-wide, regional, or statewide nature, consistent with county-wide planning policies.

(iii) Agreements among jurisdictions should be sought to mitigate any disproportionate financial burden which may fall on the jurisdiction which becomes the site of a facility of a statewide, regional, or county-wide nature.

(iv) Where essential public facilities may be provided by special districts, the plans under which those districts operate must be consistent with the comprehensive plan of the city or county. Cities and counties should adopt provisions for consultation to ensure that such districts exercise their powers in a way that does not conflict with the relevant comprehensive plan.

(v) The siting process should take into consideration the need for county-wide, regional, or statewide uniformity in connection with the kind of facility under review.

(vi) The siting process should include criteria which address the issues which make essential public facilities difficult to site, and involve a public participation component. Consideration should be given to the extent to which design conditions can be used to make a facility compatible with its surroundings, and to adoption of provisions for amenities or incentives for neighborhoods or jurisdictions in which facilities are sited.

(c) No preclusion. While it is clear that essential public facilities of a county-wide or statewide nature will not be sited within the jurisdictional boundaries of every jurisdiction planning under the act, no comprehensive plan may directly or indirectly preclude the siting of essential public facilities. Provision therefore should be made to establish a general use category which will provide for the siting of such facilities, should the occasion arise.

WAC 365-195-840

Essential public facilities

(1) Development regulations for identifying and siting essential public facilities shall be consistent with and implement the process for this purpose set forth in the comprehensive plan.

(2) The regulations should list those types of facilities which the planning jurisdiction has determined are essential, pursuant to the definition and the criteria established in the comprehensive plan for identifying such facilities. The designated facilities should include those listed by the state office of financial management and those necessary to list in order to comply with county-wide planning policies. In addition, other facilities needed locally should be listed. These may include facilities which receive funding from the state or other governmental units, but which are not identified on the state list or by virtue of county-wide policies.

(3) Except where county-wide planning policies have otherwise dictated siting choices, provision should be made for the possibility of siting each of the listed essential public facilities somewhere within each jurisdiction's planning area.

(4) For the purposes of making the threshold determination on whether a proposal presents siting difficulties, the regulations should specify a method for publicizing applications for siting essential public facilities and for soliciting initial comment on the site(s) proposed. The regulations should describe how and by whom the threshold decision will be made.

(5) For proposals involving siting difficulties, the regulations should:

(a) Provide requirements for notice to other interested jurisdictions, and for public participation in the siting decision;

(b) Consistent with county-wide planning policies, require an evaluation of feasible alternative sites and of

equity in geographical distribution;

(c) When appropriate interlocal agreements have been made, provide for an interjurisdictional process for facilities of a county-wide, regional or statewide nature;

(d) Call for an evaluation of the extent to which design features or operational conditions can eliminate or reduce unwanted project impacts;

(e) Where appropriate, establish incentives or require amenities for siting in particular areas;

(f) Include in criteria for siting decisions a consideration of the need for the particular facility in light of established level of service standards or planning assumptions.