

## **Comment on the Need for Integrated CompPlan Amendment(s) Concerning Affordable Housing**

I suggest that as matters now stand, our Comprehensive Plan will more deeply embed the ongoing shortage of affordable housing. The underlying reasons appear to be (1) the specificity of topics (Elements) statutorily mandated by RCW 36.70A.070 to be treated; (2) the consequent categorization of goals and actions under each of those respective Elements enhanced by natural bureaucratic organization and resulting in seriatim consideration by the Planning Commission; further enhanced by (3) further enhanced by the special concerns and suggestions by individuals, groups and organizations whose interest and expertise is limited to the specific Element topic.

The end result is that each Element reflects the topically and technically limited concerns with solutions that fail to grapple with the reality of the very strong *causal* currents that flow between them, and frustrate good intentions. The purpose of this memorandum is to suggest that the goals of some Elements may be gained in major part only from actions in causally related Elements.

Here is one example:

About a year or so ago the Seattle Times announced that the Wooden Boat Shop, a famous Northwest Lake Union (Seattle)-based enterprise of master wooden boat builders, was leaving Seattle and looking for a place to move to. The Port of Friday Harbor had acquired the Jensen's Marina and was looking for a tenant. I alerted Rick Hughes (he sometimes sits with though not on the EDC board) who promptly made the best pitch he could, extolling the perfect fit: existing Orcas Island land use, facilities and local support talent could do for them.

Mr. Hughes was solidly rebuffed by the Wooden Boat Shop, the reason given being inadequate affordable housing. In one stroke we lost employment, a profitable and well-known enterprise that but for the lack of affordable housing could have fit seamlessly into the San Juan County community and economy. If you read the current draft of our Economics Element, you will read the conclusion that the lack of affordable housing is one factor that prevents our attaining the broad island-based and resilient economy we aspire to.

The result is that our economy, which directly or indirectly underlies not just some things but virtually everything that happens in our county, is forced to continue to live on a seasonal high carbohydrate diet of tourism and land sales and development that over time, withers our rural and social sensibilities, exhausts our natural resources, and enlarges the gap between rich and poor, rather than a year-round balanced diet of agriculture, trade and artistic skills and temperaments, pride in work well done, sense of community and a strong middle class.

And so it is clear that Section 5.2 (echoed verbatim in each Element) of the December 17, 2019 draft of the Housing Element, which states that “[this] Housing [E]lement is both a stand-alone document meant to guide the implementation of housing related actions in the County, and a supporting piece of the Plan as a whole. It is closely tied to other planning elements such as land use, economic development, and capital facilities. ... “ is an understatement. The true relationship between Plan Elements is such that failure of goals in one Element will likely cause failure of goals in one or more other Elements. I suggest that this would be the logical result of the absence of collateral Actions in the various Elements needed to prevent “leakage” in one Element to cause failure of Goals in another Element.

Since the Housing Element is currently under discussion, I will use the Housing as a further and stronger example to show why no Element can be examined alone.

We all know that without assured water by well or large enough storage volume, a building permit will not be issued. We also know that properties operating on independent or shared well systems are relying on both adequate rainfall and the availability and potability of water in their local aquifers. In view of anticipated increased development, residential and otherwise, and consequent increased demand for water, two consequences can be anticipated on the major islands: (1) waterfront and large acreage parcels will continue to be subdivided and be developed and marketed at the high end of the real estate market. A water shortage (whether from weather, climate, or overuse) need not affect these parcels because the owners will have the financial resources to match their circumstances, either by continuing to draw heavily upon municipal or water district resources, or by desalination; and (2) The owners and developers of smaller inland parcels, not having access to private desalination, will eventually have to look to a water district not only for continued habitability of their parcels, but also for new construction.

As matters now stand, water districts are likely to control development of those interior parcels that are least costly to develop: those most likely available for rural affordable housing. But as was pointed out at the Planning Commission meeting of January 17, 2020 meeting, left to their own devices, water districts are more likely to expend capital in favor of higher market housing and development because of a higher level of confidence in water district cash flow.<sup>1</sup> The point was developed as to whether the county could or should control what water districts do. One point I hope to make clear is that not only do counties have oversight planning powers over water districts, but that they are required to exercise them to preserve the character of rural areas.

Which brings us to the problem presented by the current draft of the Utility Element.

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<sup>1</sup> This is in addition to developers’ understandable preference for higher-profit development.

Water availability and human nature together constitute the back door into the degradation of the rural character of our county, bias against affordable housing in deference to private economic pressure, and protection and preservation of ground and surface waters and so require attention not only with respect to housing, but also with Utilities and Rural Elements.

The seed that started this discussion was my comment suggesting the following addition to the Housing Element:

Page 16, line 6, add the following policy to Goal 4:

**9. Except as provided by RCW 36.70A.070(5)(d)(iii), establish priority for creation, extension or increase of utility rural government services<sup>2</sup> outside urban growth or currently served water and sewer district service areas, to serve affordable housing in preference to housing serving a higher income or wealth markets so long as affordable housing is substantially insufficient.<sup>3</sup>**

Let's jump to the Utilities Element because doubt was expressed at the January 17, 2020 Planning Commission meeting concerning the advisability of the County taking measures that might affect the feasibility of utility extensions. The Utilities Element does not specifically refer to water resources at all, although both the Washington Supreme Court<sup>4</sup> and the Legislature have given the County very considerable power over water (and sewer) districts to preserve the integrity of its Plan. The Legislature has expressly made district utility plans subordinate to the Plan:

RCW 57.16.010 provides in part as follows [emphasis added]:

Before becoming effective, [a water district's] general comprehensive plan shall also be submitted to, and approved by resolution of, the legislative authority of every county within whose boundaries all or a portion of the district lies. The general comprehensive plan shall be approved, conditionally approved, or rejected by each of the county legislative authorities pursuant to the criteria in RCW [57.02.040](#) for approving the formation, reorganization, annexation, consolidation, or merger of districts. The resolution, ordinance, or motion of the legislative body that rejects the comprehensive plan or a

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<sup>2</sup> As defined in RCW 36.70.030. This is intended to cover existing and future sewer and water districts, as San Juan County itself cannot directly render these services.

<sup>3</sup> This is in recognition that over the life of this Plan, water resources may become scarce by drawdown and the danger of pollution of remaining resources. The effect of this priority is to bar capital expenditures for creation, extension or increase contrary to this priority. RCW 36.70A.120

<sup>4</sup> *Whatcom County v. Western Washington Growth Management Board*, 186 Wn.2d 648, 381 P.3d 1 (2016). The Legislature subsequently changed one aspect of this case, but not its salient point: the primacy of the county GMA with respect to water resources.

part thereof shall specifically state in what particular the comprehensive plan or part thereof rejected fails to meet these criteria.<sup>5</sup> **The general [water district's] comprehensive plan shall not provide for the extension or location of facilities that are inconsistent with the requirements of RCW 36.70A.110.**<sup>6</sup> ... Each general comprehensive plan shall be deemed approved if the county legislative authority fails to reject or conditionally approve the plan within ninety days of the plan's submission to the county legislative authority or within thirty days of a hearing on the plan when the hearing is held within ninety days of submission to the county legislative authority. However, a county legislative authority may extend this ninety-day time limitation by up to an additional ninety days where a finding is made that ninety days is insufficient to review adequately the general comprehensive plan. In addition, the commissioners and the county legislative authority may mutually agree to an extension of the deadlines in this section.

[I am not aware of County Council action concerning utility district comprehensive plans, but I do not mean to imply that that has not happened.]

The only opinion expressed at the January 17, 2020 PC meeting concerning imposing an affordable housing preference upon water district extensions was that it could impair feasibility of financing. In fact, coupled with tax-exempt interest rates water and sewer districts have numerous devices available to enable development in otherwise financially infeasible areas, including for example utility local improvement districts and developer's latecomer recovery. Municipal corporations cannot seek profit as developers must. The only question is feasibility, not net return.

So we look at Purpose, section 8.1A of the current Utilities Element and see that it essentially turns water development planning power over to whatever utility is operating within the County, on the theory that they know better. This is inimical to the Plan, even though the statute quoted above allows a utility district plan to pass by County Council inaction. This may have been intended to encourage power and Internet service extension, but as a matter of law, but the absence of any consideration of water resources and their preservation reflects not only the inadequacy of that Element, but invites litigation on the County's failure to protect water availability.

A factor working against affordable housing is the concept of what is "rural." The term is not separately defined in the GMA, but "Rural Development" is defined in RCW 36.70A.030(21) as, among other things, development that is consistent with "Rural Character" which is extensively defined in RCW 36.70A.030(20). But this is not how these terms are treated in practice. From watching development on

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<sup>5</sup> This review is limited to matters involving RCW 57.02.040.

<sup>6</sup> See RCW 36.70A.110 (2) expressing the broader nature of this additional oversight as to which focus on affordable housing is not prohibited.

Waldron over more than 40 years, I have observed that the term “rural” is increasingly interpreted to mean “suburban.” Improvements in transportation and convenience expectations have made what was clearly rural by any definition, into a concept that permits city living in remote environments, now called “rural,” but in fact invested in, owned by, and seasonally visited by, urban dwellers with urban expectations amid rural scenery. This has shifted the county real estate market into a larger sphere over which it has no control, and displaces fulfillment of our affordable housing needs. The County has one tool at its disposal: wise husbandry of those natural assets that permit the full time residents of the County to live lives in health and harmony.

Respectfully Submitted,

Bill Appel

January 2\_, 2020