

INTRODUCTION

Over a million new residents will move into Washington in the next ten years - a tremendous challenge for a state already struggling mightily with the impacts of unprecedented growth over the last ten years. As the state approaches its tenth year under the Growth Management Act (GMA), the need to take growth management efforts to a higher level is painfully clear. The Central Puget Sound region adds 230 jobs and 133 people every day. Much of this growth is sprawling into formerly rural areas: 38% of the new development permits in Pierce County are outside the Urban Growth Area, despite a generous Urban Growth Boundary that reaches deep into the countryside. The situation is even worse in Kitsap County, where 58% of the new development permits are issued outside its Urban Growth Boundary.

These numbers threaten to overwhelm many of our communities and rural areas with generic strip malls, giant parking lots, and cookie cutter housing developments. The costs include endangered salmon, underfunded schools, disappearing farm and forest lands, overflowing sewers, spiraling housing prices, and some of the worst traffic congestion in the country.

Seeking to avoid such consequences, the Legislature passed Washington State's Growth Management Act in 1990. The law establishes thirteen ambitious goals, ranging from discouraging rural sprawl to protecting private property rights, and requires growing communities to develop and implement plans for managing their growth. Its purpose remains to reduce the destructive impacts of unplanned growth and protect Washington's quality of life.

Over the past ten years, local governments and citizen leaders have been working together throughout the state to develop plans that establish the framework for Washington's future. While their efforts have made a real difference in many communities, the experience also clearly indicates that we must strengthen growth management to protect Washington's quality of life. The current set of "tools and rules" has provided a good start, but is not adequate for the job.

Within the next three years, many local governments will be preparing a major review and update of their comprehensive plans. This review period is an important opportunity to improve the way we manage growth in Washington. Get Smart Washington outlines the reforms needed to make growth management work in Washington, based on a comprehensive performance review of the Growth Management Act's implementation over the last ten years.

EXECUTIVE SUMMARY

This year marks the 10th anniversary of Washington State's Growth Management Act (GMA). The law established thirteen ambitious goals, ranging from discouraging rural sprawl to protecting private property rights. Its purpose remains to stop the damaging effects of unplanned growth and protect the quality of life in Washington.

How successful has our State been at stopping sprawl? There is no doubt that we have made progress over the past ten years. During the 1970's and 80's, Washington's urban areas sprawled outward largely unimpeded by any notion that an outer boundary to urban development was necessary. Our land was converted to urban uses at an alarming rate -- developed land in the Central Puget Sound Area grew by 87 percent between 1970 and 1989, while population grew by about 36 percent (Pivo and Lidman, 1990).

We have made some progress in the 1990's. The Act has given local governments effective tools to reduce sprawl and create livable communities. The Urban Growth Area (UGA) has been the most important tool to contain sprawl. In addition, many local governments have established basic protections for critical areas — such as wetlands and wildlife habitat — and for conservation of forest and farmlands.

However, the application of these tools from county to county has been mixed. Lacking performance standards to hold local governments accountable, the GMA has not been consistently applied. The state does not certify whether a plan or regulation complies with the law. As a result, citizens are largely responsible for enforcement. This has led to an uneven application of the law depending on the concern and ability of interested parties to appeal a plan or regulation to the Growth Management Hearings Boards.

Within the next three years, many local governments will be preparing a periodic review of their comprehensive plans and will be making appropriate updates. This review period is an important opportunity to make improvements to the Growth Management Act. A summary of 1000 Friends recommendations is included below, under the categories "Smart Growth", "Smart Spending", "Monitoring Performance" and "Assuring Accountability":

SMART GROWTH

Smart growth policies encourage development within urban growth areas and discourage rural sprawl. Within urban areas, local governments often do not have adequate incentives to attract downtown development. In some cases, the land ownership patterns in the downtown are fragmented and it is difficult for private developers to assemble enough land to undertake a successful project. In other cases, the problem is a lack of investment in infrastructure and urban amenities to attract new development.

Premature vesting has thwarted goals of growth management in rural areas. In some counties, it will be years before the effects of GMA are seen on the ground because so much of the rural lands are already platted into urban-style lots that are vested under the State's permissive vesting laws.

- ◆ Provide greater incentives for infill development that supports growth management goals. Invest in infrastructure and amenities in existing communities. Establish a legally acceptable application of tax-increment financing. Establish a revolving loan fund to finance the assembly of urban lands. Add land use impacts to the scoring criteria used to evaluate requests for state grant funding.
- ◆ Adopt changes to Washington's vesting rights by granting vested rights upon permit approval rather than application, restricting vesting to a permit-by-permit basis, and clarifying what vesting applies to.

SMART SPENDING

Washington State's efforts to reduce sprawl could be more effective if the state spent its limited infrastructure funds more strategically to encourage growth within UGAs. Maryland, for example, directs new development to "Priority Funding Areas" by focusing state support for growth-related projects within these areas. Maryland has prohibited funding for several growth-inducing projects outside of designated areas, including five highway bypass projects and a 550 acre tract that had been slated for development. In addition, Maryland directs state agencies to give priority for funding to central business districts, downtown core areas, empowerment zones and

EXAMPLES OF MIXED PERFORMANCE ON GROWTH MANAGEMENT GOALS

Urban Growth Areas

Of the 12 most populous counties, only King and Snohomish have compact UGAs that have at least 3,000 people per square mile.

The amount of urban land per capita within the UGAs ranges from 7,500 square feet in King County to over .5 acre in Grant County.

Critical Areas

According to a 1998 CTED survey, Clark County was the only county to adopt the wetland and stream buffers recommended by the Depts. of Ecology and Fish and Wildlife.

Agricultural Lands

Skagit, Snohomish, Grant and Benton Counties have designated over 95% of all farmland for long-term conservation.

In Kitsap, Yakima, Island, Thurston and Pierce Counties less than 1/3 of all farmland is designated for conservation.

revitalization areas. These policies have prompted the relocation of two new district courthouses and a new county office building from the outskirts of town to downtown areas.

- ◆ Focus state spending on funding for economic development, infrastructure, government buildings (including schools), and other public investments into urban growth areas. Establish substantial restrictions to discourage state spending outside urban growth areas.
- ◆ Restore transit funding to pre-I-695 levels and increase transit's share of the total state transportation spending.
- ◆ Modify criteria for state transportation spending and funding for local governments to emphasize growth management goals and compliance.
- ◆ Establish new revenue sources for open space acquisition and protection; increase funding for Washington Wildlife and Recreation Program and Trust Land Transfer Program.
- ◆ Establish additional sources of revenue and funding for implementation of growth management at the local level.
- ◆ Develop and implement local and state funding options to address the infrastructure funding gap (now estimated at \$3.05 billion).

MONITORING PERFORMANCE

It is difficult to conduct an accurate assessment of the State's achievements under growth management because the State has not established and monitored key benchmarks. The State does not collect pertinent data related to urban growth boundaries, farm and forest land loss, wetland loss, and other key indicators in order to measure performance in attaining GMA's goals.

A system of performance measures should be established to allow comparisons between jurisdictions and counties statewide. These performance measures should provide a limited and reasonable framework of information for assessing if GMA goals are being achieved and if additional revisions are needed.

- ◆ Establish benchmark measures for GMA's goals and requirements and collect data annually to assess performance.
- ◆ Assess the effectiveness of transportation concurrency through a state-sponsored study that examines the current problems and changes needed to improve and fund its administration.

ASSURING ACCOUNTABILITY

Local governments' compliance with the Act has varied dramatically. There are no consistent performance

standards for the size of urban growth areas, the provision of affordable housing, the size of wetland and stream buffers, and the level of conservation for forest and agricultural lands. Citizens are largely responsible for enforcing the Act through appeals of plans and regulations to the Growth Management Hearings Boards.

- ◆ Establish a State-level compliance review of comprehensive plans and development regulations to ensure that these GMA enactments comply with the law and to achieve greater consistency in the level of compliance.
- ◆ Establish state standards for important GMA goals, to increase accountability and clarify what is expected of local governments.
- ◆ Provide additional state guidance and standards for designation and conservation of natural resources so that important resource lands are protected consistently throughout the state.
- ◆ Require that Countywide Planning Policies include affordable housing targets. These targets would require each jurisdiction to plan for its fair share of housing that is affordable to low income, very low income and special needs households
- ◆ Reinstate the "preponderance of the evidence" as the standard of review before the Hearings Board.

ORGANIZATION AND METHODS

In order to deliver a concise yet comprehensive presentation of the analysis we have organized our findings and recommendations by the thirteen goals listed in the GMA. Where applicable the report cites statistics or relevant qualitative data to show recent changes that have occurred since the GMA was passed.

1000 Friends distributed questionnaires to those familiar with the goals of the GMA and the changes that have taken place over the last ten years. Additionally we have conducted some interviews to expand on the questionnaires. The responses add a qualitative element to the analysis.

We have researched reports analyzing similar legislation in other states such as Oregon and Maryland, among others, and included their success stories. It should be noted that in 1999 about one thousand state land-use reform bills have been introduced in legislatures across the country of which 200 have been enacted into law.

Based on the progress made in the last ten years, or lack thereof, we have listed findings and recommendations for each goal.

One general problem that has hindered progress on many of the goals is a lack of enforcement. Following the analysis of the goals we address both the problem of enforcement in general and specific recommended actions.

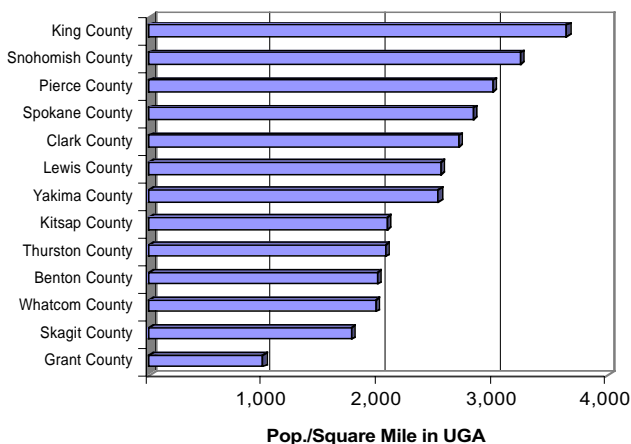
GROWTH MANAGEMENT GOALS

GOAL #1: ENCOURAGE DEVELOPMENT IN URBAN GROWTH AREAS

Urban Growth Areas (UGAs) are one of the most effective tools for stopping sprawl development. In Washington, counties must work with cities to establish UGA boundaries that are sized for 20 years of growth. Chart 1, based on data collected from the most populous counties in the State, shows that there is a wide variation in the relative sizes of the county UGAs. While we might expect some variation to account for regional differences, Urban Growth Areas that are sized for less than 3,000 people per square mile encourage the inefficient use of land and lead to urban sprawl. Of the most populous counties, only King and Snohomish County have UGAs that are sized for more than 3,000 people per square mile. King County has the most compact UGA, with approximately 3,600 people per square mile of urban land. In contrast, Grant County's UGA includes only 990 people per square mile of urban land -- creating a UGA that is almost 4 times the size of King County's in terms of urban land per capita.

Chart 1 Size of County Urban Growth Areas

RANKED FROM MOST COMPACT TO MOST SPRAWL INDUCING URBAN GROWTH AREAS



Despite this variation, in many counties the UGAs have been an effective tool to encourage compact growth. More compact housing types are being built in the downtowns of cities like Kirkland, Bellevue, and Renton. Redmond is creating a vital, vibrant downtown that includes moderate and high-density housing along with parks, shopping, civic buildings and office development.

Washington State's efforts to reduce sprawl would be more effective if the state spent its limited infrastructure funds more strategically to encourage growth within UGAs. For

example, Maryland directs new development to "Priority Funding Areas" by focusing state support for growth-related projects within these areas. The State has prohibited funding for several growth-related projects outside of designated areas, including five highway bypass projects and a 550 acre tract that had been slated for development. In addition, Maryland directs state agencies to give priority for funding to central business districts, downtown core areas, empowerment zones and revitalization areas. These policies have prompted the relocation of two new district courthouses and a new county office building from the outskirts of town to downtown areas.

Other state programs also offer financial incentives to encourage compact growth. One obstacle to compact infill development is the need to assemble parcels of underutilized land within urban areas. New Jersey has an Urban Site Acquisition Program that allows urban areas to acquire vacant and abandoned properties that serve as obstacles to revitalization and has provided \$425 million for that purpose.

FINDINGS

- ◆ The GMA has contributed significantly to the success of cities in attracting density and growth in downtowns.
- ◆ Growth within UGAs would be enhanced if state spending on infrastructure was focused within UGAs and was required to be consistent with local and regional plans.
- ◆ Local governments lack the necessary tools, such as tax increment financing and urban land acquisition funding, to offer incentives for development in urban centers.

RECOMMENDATIONS

- ◆ Focus state policies and spending on funding for economic development, infrastructure, government buildings (including schools), and other public investments into urban growth areas. Establish new restrictions to discourage growth-inducing state spending outside urban growth areas.
- ◆ Reward "infill" infrastructure projects that support growth management goals. Add land use impacts to the scoring criteria used to evaluate requests for state grant funding.
- ◆ Establish spending criteria that reward jurisdictions meeting and exceeding growth management goals.

- ◆ Establish funds/credits to help finance good infill development projects in areas that aren't meeting growth targets. Develop creative funding incentives to reward transit-friendly, mixed use development – such as trip reduction credits that reduce concurrency and SEPA fees.
- ◆ Establish tax incentives to revitalize main street business districts.
- ◆ Assess the State tax structure to identify its impacts on land use. Identify changes that would reward infill development and discourage sprawl development.

GOAL #2: REDUCE RURAL SPRAWL

Under GMA, rural areas include a variety of uses and residential densities at levels that are consistent with the preservation of rural character. The Act does not define the appropriate densities for rural development. In the absence of specific standards for rural densities, the Growth Management Hearings Boards have generally considered that a density of 1 unit per 5 acres is appropriate in rural areas, provided that the rural areas include a variety of densities. The base rural densities within individual counties vary rather dramatically, for example, from 1 unit per 2.5 acres in Ferry County to 1 unit per 10 acres in Pierce County.

In complying with the Act, most counties have reduced the potential for rural sprawl. However there are a number of key provisions in the Growth Management Act that could be strengthened in order to better achieve this goal. For example, the Act allows Master Planned Resorts in rural areas, with little guidance as to the kinds of dwelling units that should be permitted within resorts and how infrastructure should be provided. This lack of guidance has resulted in proposals for rural resorts that include permanent housing for long-distance commuters.

FINDINGS

- ◆ Rural densities vary widely from county to county and the GMA does not establish accepted standards for these densities.
- ◆ Special Purpose District (water, sewer, school, port, etc.) planning for the expansion of facilities and services is not required to be consistent with local comprehensive plans.
- ◆ Urban school districts continue to plan for and acquire school sites outside of UGAs, fueling rural sprawl.
- ◆ The Act's provisions for Master Planned Resorts create a loophole for urban development outside UGAs.

RECOMMENDATIONS

- ◆ Require that water system, wastewater, and other special purpose district planning be consistent with GMA planning.
- ◆ Establish clearer standards for rural densities within the GMA.
- ◆ Amend the Master Planned Resorts section of law to include specific limitations on housing for permanent residents and to establish effective standards for recreational facilities and adequate infrastructure.

GOAL #3: ENCOURAGE EFFICIENT MULTI-MODAL TRANSPORTATION SYSTEMS

GMA has worked to increase awareness of and planning for alternative modes of travel. As our cities become denser, maintaining mobility will depend on having transportation choices, including public transit, bicycling, walking, and carpooling. While the automobile continues to be the dominant mode of travel overall, there are encouraging signs of change.

Nationwide, the long-term decline in public transit usage reversed in the mid-1990s as bus and train service improved. Transit ridership has increased by more than 15 percent since 1996. Federal spending for bike paths and lanes, sidewalks, and other facilities for walkers and cyclists exploded, growing from \$7 million in 1990 to \$222 million in 1999. Funding for buses and rail transit nearly doubled. This means that more Americans have more travel choices, making it possible for more people to avoid driving on our increasingly congested road system (Surface Transportation Planning Project, 2000).

From 1990 to 1999, Washington doubled the share of federal funds it devoted to alternative transportation modes, from \$10 to \$20 million. In King County, METRO Transit agency used federal funds for alternative modes to equip all 1,200 of its buses with bike racks.

At the State level, transit funding has declined dramatically. The primary good news has been in the central Puget Sound Region, where voter approval of the Sound Transit ballot measure is funding the first phase of a system of light rail, commuter rail and high capacity bus service. But the passage of I-695 will reduce transit budgets by 30-50%, if funds are not restored, and local transit agencies were already seriously underfunded prior to the passage of Initiative 695. Although the 2000 Legislature provided partial and temporary "emergency" funds to help reduce 695 cuts, the State will not be able to meet growing transportation needs without long-term solutions. On a positive note, in the five months since the passage of I-695, voters in three rural counties (Greys

Harbor, Clallam, and Island) have overwhelmingly approved local tax increases to restore transit funds eliminated by the initiative.

GMA calls for local communities to link land use planning and transportation planning. Unfortunately, transportation and land use decisions are often made with little regard for their impacts on one another. Roads constructed to connect urban areas become the impetus for local development activity along the new roadway corridors. Similarly, roads constructed to link the suburbs with central cities can reinforce a sprawling urban development pattern. Without land use controls and access limitations, such transportation improvements can stimulate undesirable development and often result in environmentally destructive, auto-dependent urban sprawl. Transportation planning often fails to recognize that sometimes the best transportation solution is a land use solution – for example building communities where you can shop, live and work within easy walking or bicycling distance.

GMA could do more to strengthen the connection between land use and transportation. All proposed increases in road capacity should be linked to a specific growth pattern and land use strategy in the plan. In addition, Washington should require that all State transportation spending be consistent with local growth management plans and regional transportation plans.

Other states have had more success in encouraging transit use. The Oregon transportation rule seeks to reduce the number of vehicle miles traveled by requiring street designs and layouts to include options for walking, riding public transit, bicycling or traveling by car. Portland has not added any significant roadway capacity over the last 20 years. Twenty-six percent of downtown workers take mass transit to work, keeping 130,000 cars off the road daily. From 1992 to 1999, Rhode Island was one of three states in which the number of miles driven per capita decreased; at the same time bus ridership increased by 35 % (APA, 2000).

FINDINGS

- ◆ As Washington's communities grow more compact, transit and other alternative forms of transportation will have to play a more vital role as a way to move people and goods.
- ◆ Current transit and transportation funding is insufficient to keep up with the growing need for facilities and service.
- ◆ Land use and transportation planning should be more closely linked. New transportation spending should be tied to land use strategies that promote compact growth and reduce single occupant vehicle trips.
- ◆ GMA gives Regional Transportation Planning Organizations the authority to certify local transportation plans and to stop transportation projects that are not consistent with the regional plan. It should go further to require that state and other funding sources be consistent with the priorities established in regional plans.

RECOMMENDATIONS

- ◆ Restore transit funding to pre-I-695 levels through a combination of State and local option funding. Restore a continuing State and substantial contribution to transit.
- ◆ Modify criteria for state transportation spending and funding for local governments to emphasize growth management goals and compliance.
- ◆ Review Oregon's Transportation Planning Rule for application to Washington, particularly as it relates to land use and transportation linkages.



GOAL #4: ENCOURAGE AVAILABILITY OF AFFORDABLE HOUSING

GMA requires that local comprehensive plans include a housing element that ensures adequate affordable housing for all economic segments of the community. But many communities continue to fall farther behind in affordability as housing prices have climbed dramatically in the central Puget Sound region over the past five years.

While some argue that the Act's urban growth boundaries constrain the land supply and drive up the costs of land and housing, studies have shown that this is a minor factor in housing affordability on the whole. As the Act encourages more housing units to be built on each acre, the cost of land is less of a factor in the overall cost of a home. Job growth that has outpaced housing construction and the trend toward larger and more luxurious homes are more directly related to the rising costs of housing.

Under GMA, jurisdictions have generally done well at adopting housing elements that ensure adequate capacity. However, fewer communities ensure significant opportunities for a full range of housing types (and densities) - especially in the middle density range of 8-15 units per acre. These density levels typically accommodate a significant variety of housing choices (small lot single family, cottage housing, townhome and duplex/triplex development) that are often affordable housing options. Without significant land capacity available for these housing types, many households that are interested in or could benefit from these housing options find their choices limited.



Another significant factor is the growing imbalance of jobs and housing within communities and sub-regions. Within King County, there are several communities experiencing significant job growth without concurrent growth in housing stock. This not only exacerbates traffic difficulties, but it also places a strain on the housing market and can result in reduced affordability.

FINDINGS

- ◆ Home ownership is an increasingly difficult challenge for many residents and communities – especially for households earning median income or below. In addition, public funding for housing serving the very low income has not kept pace with growing demand.
- ◆ The continuing gap in funding for needed infrastructure (including transportation, community facilities, parks and amenities) affects housing affordability. This is especially true within urban centers where these improvements are absolutely vital to making the higher densities attractive to the community and residents.
- ◆ Continuing public resistance to infill development presents ongoing challenges for many communities. Often, review processes for infill development are stretched to their maximum point, resulting in significant delays and resulting increased costs for housing development.
- ◆ Some communities are not making an adequate effort to address housing for special needs populations (e.g. group homes for developmentally disabled people).

RECOMMENDATIONS

- ◆ Countywide Planning Policies should establish affordable housing targets. These targets would require each jurisdiction to plan for its fair share of housing that is affordable to low income, very low income and special needs households. Jurisdictions could help ensure adequate capacity by documenting housing types that are “likely to be affordable” and designating adequate capacity to accommodate projected demand for these types of affordable units.
- ◆ Authorize a local source of funding that is dedicated to meeting affordable housing needs.
- ◆ Ensure that infrastructure and amenities are provided (and not neglected) in areas that are affordable or provide a significant amount of affordable housing stock.
- ◆ Support efforts to develop relevant standards to assure that local jurisdictions accept responsibility to accommodate growth, including incentives to reward high performing jurisdictions.

GOAL #5: ENCOURAGE ECONOMIC DEVELOPMENT THROUGHOUT THE STATE

GMA was intended to help all of the state's residents have more opportunities to achieve economic stability and self-reliance. However, Washington's economic growth continues to be concentrated along the I-5 corridor and in traditional economic centers, such as Spokane. Over the past three years, the unemployment rate in King and Snohomish Counties has averaged 3.2% and 3.5% respectively. Over the same period of time, Adams, Columbia, Ferry, Klickitat, Pend Oreille, and Yakima Counties have sustained unemployment rates of over 10%.

Many of the counties that have the highest unemployment rates are slow growing counties that are not planning under the GMA. In fact, responsible planning under the Growth Management Act goes hand in hand with good rural economic development. It is only through good planning for land use and capital facilities that our state's rural counties will be able to attract jobs and economic development. High-wage businesses will continue to invest in areas where good planning assures that infrastructure will keep pace with growth.

Even more importantly, businesses are attracted to areas that have easy access to major transportation hubs and that have an adequate supply of educated, skilled workers. These areas will continue to be focused along the I-5 corridor. To broaden the number of areas that enjoy strong economic growth, the State could identify and help develop growth centers in areas that have the capacity, realistic ability, and strong local support to attract such growth.

FINDINGS

- ◆ Washington's economic growth continues to be concentrated in the central Puget Sound and Vancouver, Washington.
- ◆ Preparing comprehensive plans is an important prerequisite to economic growth, but will not, in and of itself, spur job growth.
- ◆ The Growth Management Act includes provisions for maintaining a 20-year supply of industrial land within the Urban Growth Area and for appropriate economic development in rural lands.

RECOMMENDATIONS

- ◆ The 1990 report of the State Growth Strategies Commission included important recommendations for building a network of strong regional economies that seek to spread growth across the state. The State should work to refine and implement the recommendations in the report and adopt strategies to target new growth outside of the Puget Sound region.
- ◆ The State should establish guidelines for the kind of economic growth that is appropriate in essentially rural counties and that is compatible with maintaining rural character.

GOAL #6: PROTECT PRIVATE PROPERTY RIGHTS

Washington's growth laws affirm that private property shall not be taken for public use without just compensation having been made. Washington law also provides that no one has an absolute right to use their property in a manner that may harm the public health or welfare, or damage the interests of neighboring landowners or the community as a whole.

In March of 1995, the State Attorney General issued an updated memorandum advising local governments on a consistent process by which to evaluate proposed GMA plans and regulations in order to avoid unconstitutional takings of private property. The memorandum recommends a process, establishes general principles, and gives examples of warning signals to watch for in developing plans and regulations under GMA.

When examining the issue of private property rights, it is also important to recognize public responsibilities. Vesting is an area where Washington is neglecting public responsibilities. Vesting occurs when a developer is granted the right to develop property, and is exempted from future changes in rules and regulations that would impact the development. Vested proposals are "grandfathered" under old rules. Washington has some of the most permissive vesting laws in the country. Currently vesting occurs when a complete subdivision, short plat or other development application is submitted for review. Washington's vesting law does not require that a permit be approved or a landowner make an actual investment in construction or even begin clearing or grading the land before rights are "vested." Small subdivisions can vest for an unlimited period of time. The result is that when a city or county proposes to strengthen its development rules, developers submit a flood of proposals under the old rules, grandfathering projects that won't be built for many years and that often undermine the public interest in managing growth.

Closing or shrinking this loophole is important to the success of growth management. The impacts of premature vested or “grandfathered” rights are dramatic. In Kitsap County, over half of all growth is occurring outside the UGA. Much of this rural sprawl is directly attributable to the creation of lots that were vested before the County had adopted a plan that complied with the Act. During the long legal battle over Kitsap County’s plan, many lots that are no longer permitted under the plan were vested.

The State needs to strike a better balance among developer, local government, and neighborhood interests in this complex but important area of land use law. 1000 Friends has proposed legislation that would establish vested property rights only after local governments approve building permits. Projects would vest to a specific permit, rather than throughout the entire process. Finally, short subdivisions would be subject to a five-year limitation on vesting periods. Currently there is no time limit whatsoever on these short subdivisions’ vested rights.

FINDINGS

- ◆ The State Attorney General’s Office has provided helpful guidance on the issue of takings of private property.
- ◆ While it is important to focus on property rights, there is a need to balance property rights with the public responsibility to protect health, safety and welfare.
- ◆ Premature vesting has thwarted goals of GMA. In some counties, it will be years before the effects of GMA are seen on the ground because so much of the rural lands are already platted into urban-style lots that are vested under the State’s permissive vesting laws.

RECOMMENDATIONS

- ◆ Adopt revisions to Washington’s vesting rights by granting vested rights upon permit approval rather than application, restricting vesting to a permit-by-permit basis, and by clarifying what vesting applies to.

GOAL #7: PROCESS PERMITS IN A TIMELY AND FAIR MANNER

Since the passage of the Act in 1990, there has been a major focus on streamlining the permit review process. These efforts culminated in the passage of the Regulatory Reform law of 1995. The law eliminates duplication in environmental and land use regulation, reduces the length of the development review process, and establishes a straightforward process and standards for land use appeals to Superior Court.

Local governments now rely more on the comprehensive plans and sub-area plans developed under the Growth Management Act during project review. Decisions on issues such as land use, density, and public facilities are now firmly established at the comprehensive plan stage.

The law provided that a final permit decision must be made within 120 days of the submission of a complete application, and strictly limited the number of hearings and appeals at the local level. The 120-day clock did not run while the applicant is responding to correction notices, the county is preparing an EIS, or during administrative appeals. Although the 120 day provision is now expiring, there will be efforts to reenact it.

There is a provision of the regulatory reform law that discourages appellants from carrying important and legitimate appeals of inappropriate projects through the system. The law requires appellants to pay attorney’s fees if they lose their appeals at the local, superior court and court of appeals. This is highly deferential to parties with deep pockets. This provision makes appellants reluctant to take important appeals cases beyond the superior court level, where decisions are often made by judges who do not have significant land use expertise.

FINDINGS

- ◆ Regulatory reform laws adopted since the passage of the Growth Management Act have enhanced the predictability of the development review process.
- ◆ The provision of the regulatory reform law that requires appellants to pay attorney’s fees if they lose their appeals at the local, superior court and court of appeals inappropriately discourages appellants from taking important appeals cases beyond the superior court level, where decisions are often made by judges who do not have significant land use expertise.

RECOMMENDATION

- ◆ Monitor and report on the results of the Regulatory Reform laws on the permitting process.
- ◆ Provide equal access to due process by repealing the “loser pays” provision of land use appeals.

GOAL #8: CONSERVE FOREST AND AGRICULTURAL LANDS

GMA requires that counties designate and conserve forest and farmlands of long-term commercial significance. Because many of these designation and conservation measures were completed only within the past five years, it is still early to assess the impact that GMA has made on the ground. However, preliminary data shows that resource lands are at greater risk of conversion than ever before. According to the U.S. Department of Agriculture, almost 200 acres of Washington's resource lands were developed each day between 1992 and 1997. That is equivalent to one acre every 8 minutes, an all time high. This rate of resource land loss is more than double that of the ten years prior.

Employment and population growth in the 1990's has fueled the conversion of resource and rural lands to urban uses. Presumably, these losses occurred in lands that were not designated as resource lands of long-term commercial significance. The Growth Management Act has assured the conservation of land that is designated as resource lands of long-term commercial significance. However, in a number of counties, less than half of all farm and forest land was designated for conservation.

It will be particularly critical to monitor what happens to forest and farmland designations and protection measures over the next 5 to 10 years. If counties maintain their designations, then resource lands losses should slow. On the other hand, if pressures for urban development lead to lands being removed from resource designation, the problem will continue to grow.

AGRICULTURAL LANDS

Chart 2 below shows the percentage of total farmland that has been designated as agricultural land of long-term commercial significance within the most populous counties in the state. The chart shows the variation in rates of protection of farm land. For example, Snohomish and Thurston Counties have approximately the same acreage of farmland (60,500 acres and 56,300 acres respectively). However, Snohomish County has designated over 98% of its farmland for long-term conservation, while Thurston County has designated only 21% of the total acreage for conservation. The chart also shows that small-scale farms in areas like Kitsap County and Island County are particularly at risk. While Kitsap County has nearly 20,000 acres of farmland, none was designated for long-term conservation.

Table 1 shows the counties with the greatest loss of farmland from 1987-1997. These counties have all experienced rapid growth over the decade. These losses are likely to continue unabated in Island, Pierce, and Clark County where only a third to a half of all farmland is slated for conservation.

Chart 2

PERCENTAGE OF TOTAL AGRICULTURAL LAND DESIGNATED AS RESOURCE LAND

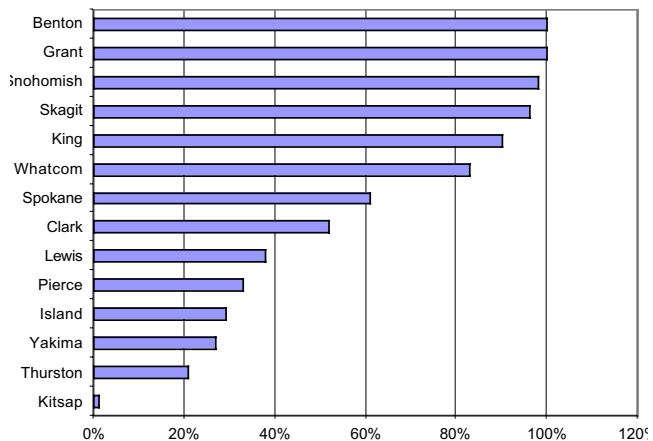


Table 1

COUNTIES WITH GREATEST LOSS OF FARMLAND 1987 – 1997

County	Percentage Loss
Snohomish	35%
Clark	30%
King	30%
Whatcom	20%
Island	17%
Pierce	16%

Source: Census of Agriculture, USDA

FORESTRY

Over the last 30 years, 2.3 million acres of forest land in Washington has been converted to other uses. Over the past 50 years, the state has lost over 2/3 of all remaining old growth forest lands.

Because of a lack of data, it is difficult to assess the impact that GMA has had in preventing the conversion of forest resource land to urbanization. It is clear that a significant amount of acreage has been designated for long-term conservation. In the 11 most populous counties that have forest lands, approximately 2.5 million acres of private forest land has been designated for conservation under the Act.

Table 2

ACRES OF FOREST LAND DESIGNATED FOR LONG-TERM CONSERVATION

(Excludes National Forest Lands)

Lewis	527,772
Skagit	373,524
Pierce	296,262
King	250,000
Snohomish	244,523
Yakima	187,086
Whatcom	186,114
Clark	158,005
Thurston	144,512
Spokane	85,604
Kitsap	2,700

Source: County Comprehensive Plans.

FINDINGS

- ◆ The percentage of total farmland that has been designated for conservation under the Act varies widely from county to county.
- ◆ There is a lack of data to evaluate the extent to which forest lands are designated and conserved under the Act.
- ◆ Natural resources of state-wide significance are not addressed in GMA.

RECOMMENDATIONS

- ◆ There should be additional state guidance and standards for designation and conservation of natural resources so that important resource lands are protected consistently throughout the state.
- ◆ The State should gather data related to forest and farmland conservation and should monitor and report regularly conversion of resource lands to urban uses.
- ◆ The State should identify natural resource lands of state-wide significance and develop a strategy to protect these lands.

GOAL #9: ENCOURAGE THE RETENTION OF OPEN SPACE

The GMA requires local government to identify open space corridors in comprehensive plans. Vital open spaces along streams and rivers and between and within urban areas are an integral part of the Act’s vision for the future. However, the real key to retention of these corridors and other open spaces is funding for acquisition of these lands.

The Washington Wildlife Recreation Program (WWRP) provides funds for the acquisition and development of parks, trails, critical habitat, natural areas, and urban wildlife areas. The state also authorizes counties to enact a local option property tax of up to \$.0625 per thousand dollars of assessed value under the Conservation Futures Program. This land preservation program can fund acquisition of threatened areas of open space, timber lands, wetland, habitat areas, and farm lands.

Other states have more robust funding for the acquisition of open space. Florida’s land acquisition program is among the largest and most aggressive in the country, spending more than \$300 million annually to purchase environmentally sensitive lands. New Jersey’s Garden State Preservation Trust Act allocates \$98 million dollars annually for the acquisition of open space and farm land. Oregon provides about \$46 million in annual state lottery revenue to acquire open spaces, parks and watershed lands.

RECOMMENDATIONS

- ◆ State and County governments should appropriate funding annually to buy and/or protect farm and forest land and critical habitat as well as providing new parks and other open space.
- ◆ Establish new revenue sources for open space acquisition and protection; increase funding for Washington Wildlife and Recreation Program and Trust Land Transfer Program.
- ◆ Direct penalties for conversion of resource lands from current use assessment to local government capital investments for open space, parks, and farmland preservation. They are currently unbudgeted.
- ◆ Place more emphasis on land acquisition, Transfer of Development Rights (TDR) and Purchase of Development Rights (PDR) as strategies to achieve growth management goals.

GOAL #10. PROTECT CRITICAL AREAS

The Growth Management Act requires all local governments to adopt regulations to protect critical areas, which include wetlands, wildlife habitat, aquifer recharge areas, geologically hazardous areas, and frequently flooded areas. In 1995, the Act was amended to require that these regulations include the best available science. This year, the state is scheduled to adopt administrative rules defining the term “Best Available Science.” The protection of critical areas and the more recent acknowledgment of the need for a science-based standard has been a major achievement under the Act.

In 1998, The State Department of Community, Trade and Economic Development (CTED) completed a review of over 200 critical areas ordinances in the state. This is the most comprehensive assessment of regulations adopted under GMA that has been undertaken to date.

The review found that the protections provided by critical area regulations vary from jurisdiction to jurisdiction. CTED compared wetland buffer standards to those recommended in the Department of Ecology’s model guidelines for wetland buffers. The model incorporates the best available science needed to protect the functions of wetlands. It includes buffer widths for wetlands adjacent to high and low intensity land uses. 19 out of 26 counties surveyed did not meet either standard of wetland buffer. Only 4 of the 26 counties met the Washington Department of Fish and Wildlife’s standard for buffer protection for streams. (CTED, 1998) The counties that met the standards are listed below.

Table 3

COUNTIES MEETING STANDARDS FOR WETLAND AND STREAM BUFFERS

<i>Met Standard for Wetland Buffers</i>	<i>Met Standard for Stream Buffers</i>	<i>Met Standard for Both</i>
Benton	Clark	Clark
Clallam	Pierce	
Clark	Whatcom	
Cowlitz	Yakima	
Kitsap		
Skamania		
Thurston		

Source: CTED, 1998

FINDINGS

- ◆ CTED’s survey of critical areas ordinances demonstrates that there is a wide range in the protection. Relatively few county ordinances meet the standard of the best available science.
- ◆ The requirement that best available science be included in the regulations has been an important addition to the law.
- ◆ It is critical to link watershed planning and planning for salmon recovery under the Endangered Species Act with Growth Management planning.

RECOMMENDATIONS

- ◆ The State should provide more guidance to local governments on measures that actually work to protect wetlands and other critical areas, and on regulatory strategies that have not proven successful.

GOAL #11: ENCOURAGE THE INVOLVEMENT OF CITIZENS IN THE PLANNING PROCESS

There is widespread agreement that the public process involved with developing comprehensive plans and development regulations has heightened public awareness of planning issues. Literally hundreds of thousands of people across the State have been involved in the growth planning process. GMA has focused attention on the choices that we have to make to prevent sprawl and unplanned growth from diminishing our quality of life in Washington. Because of that focus, public opinion, particularly in the central Puget Sound, is evolving toward greater support of compact growth and density.

Heightened awareness of growth issues still has not translated clearly into people's thinking about how the choices each of us make in our everyday lives affect our communities. The State, local governments, and non-profit agencies need to communicate more effectively about how communities are enhanced through growth management, and how each individual's choices about where they live and how they travel from one place to another have an impact on the quality of life in Washington.

FINDINGS

- ◆ GMA has achieved a heightened public awareness of planning issues
- ◆ Public opinion is evolving toward greater support of compact growth
- ◆ Planning still not translated clearly into people's thinking about the choices people make in their everyday lives

RECOMMENDATIONS

- ◆ Local governments should continue to pursue innovative ways to get the public engaged in growth issues.
- ◆ There is a critical need for a widespread public education campaign relating important growth issues to people's everyday choices.

GOAL #12: ENSURE CONCURRENCY FOR PUBLIC FACILITIES AND SERVICES

"Concurrency" requires that adequate infrastructure facilities and services (such as roads, water, sewer, and schools) needed to serve development are available within a reasonable time of the impacts of that development. The Act requires that local governments establish minimum standards for the infrastructure needed for growth and that they maintain those minimum standards. For transportation, the provisions are stronger and require that development permits cannot be approved unless transportation facilities meet minimum level of service standards.

This is an area of the law that is relatively untested, and the concept of concurrency and adequate public facilities as it applies under GMA is still being developed. What is clear is that the greatest obstacle to maintaining infrastructure standards has been the lack of adequate funding.

The State recently completed the Local Government Infrastructure Study. The report finds that local government reported a total of \$8.16 billion in infrastructure needs from 1998-2003 for roads, water, sewer and stormwater facilities. It did not address other infrastructure needs such as schools, parks, public safety, transit, and solid waste. The study identifies a funding gap of \$3.05 billion, or 38% of the total need. The study was completed prior to the passage of I-695, and thus further underestimates the funding shortfall.

Florida has had more experience with the concurrency requirement. A recent review of the impact of concurrency on land use and transportation in Florida has concluded that the underlying statutory purpose of concurrency is an important public purpose. However, the state found that transportation concurrency focuses almost exclusively on roadway capacity, not on creating livable communities.

Florida further found that the pursuit of transportation concurrency likely impedes the attainment of more important goals which promote compact urban growth, urban infill, and redevelopment. It is difficult for communities to give pedestrian-friendly urban development and other transportation modes priority over vehicle mobility. Maintaining adopted service standards for roads also may constrain land development in areas contrary to the economic development goals of a community.

FINDINGS

- ◆ Washington does not systematically collect data from which the effectiveness of transportation concurrency can be comprehensively evaluated. Neither does the state have clearly defined criteria by which to determine whether transportation concurrency is achieving its underlying goal — improving mobility and accessibility.
- ◆ Regulating growth primarily to limit roadway congestion is not a uniformly desirable goal, especially in an urban setting. Ultimately, as concurrency directs development to areas with available roadway capacity, it may fuel sprawl and further reduce transportation level of service standards.
- ◆ There is a significant funding gap between the infrastructure needs established in local comprehensive plans and the resources available to fund those needs.
- ◆ Washington needs to improve funding for capital facilities.
- ◆ Washington needs a better understanding and articulation of the costs of growth.

RECOMMENDATIONS

- ◆ Assess the effectiveness of concurrency, including a particular focus on transportation concurrency, through a state-sponsored study that examines the current problems and changes needed to improve and fund the administration of concurrency.
- ◆ Ensure that transportation concurrency is consistent with planning goals favoring urban infill, urban redevelopment and downtown revitalization in all communities. Encourage greater emphasis on alternative transportation modes as part of concurrency.
- ◆ Develop and implement local and state funding options to address the infrastructure funding gap (now estimated at \$3.05 billion).

GOAL #13: HISTORIC PRESERVATION

While the GMA includes a goal to identify and encourage the preservation of sites with historic or archeological significance, it does not include specific requirements to achieve the goal. It should be recognized that sprawl is often the greatest threat to historic sites. The National Trust for Historic Preservation recently named its 12 Distinctive Destinations for travel this summer. These distinctive places were chosen because they are managing growth responsibly, maintaining vibrant downtowns, and demonstrating a strong commitment to historic preservation. So while GMA does not include explicit requirements for preservation, its anti-sprawl measures encourage the protection of historic and archeological resources.

FINDINGS

- ◆ Historic neighborhoods are most likely to be attractive, walkable places with a mix of residential and retail uses—just the kinds of compact places that Act encourages.
- ◆ The Act's anti-sprawl measures encourage the protection of historic and archeological resources.

ENFORCEMENT

Enforcement of the Growth Management Act is largely left up to the vigilance of concerned parties. Under GMA, local plans are considered valid unless appealed to the Growth Management Hearings Boards. The Act created growth management hearings boards to resolve land use disputes quickly, as an alternative to prolonged court proceedings. Rather than a single state-wide board, there are three independent hearings boards in order to reflect regional diversity.

Unlike in other states such as Oregon and Florida, the State does not certify whether a plan or development regulation complies with the Act. While state agencies may comment on a plan or regulation before it is adopted, there is no determination of compliance. This review only occurs if a party with standing appeals the plan or regulation to the Hearings Boards.

This system has led to inconsistencies in the level of compliance in the various plans. For example, some County critical areas regulations have been appealed repeatedly to the Hearings Boards. These regulations have had to be revised to comply with the Best Available Science. Other regulations have not been appealed and do not meet scientific standards for protection of critical areas.

The Growth Management Hearings Boards have played a very important role in clarifying the intent and substance of the Act. The Boards have been a very cost-effective, timely people's court that has the responsibility to decide some very tough issues. The Board's record speaks for itself. With over 400 cases decided, the Board has found the local government in compliance over 75 % of the time. Cases are decided within 180 days, in contrast to the months or years that it takes to get a court date, never mind a final decision.

Initially, the Hearings Boards used the "preponderance of the evidence" standard to decide whether or not the local government had complied with the Act. Under this standard of review, if over half of the evidence presented in the appeal demonstrates that the local government did not comply with the law, then the appellant prevailed in the case. The Act was amended in 1996 to change the standard of review to "clearly erroneous." This change places a greater burden on the appellant to prove that the local government's actions were clearly in error and creates undue hurdles for citizens appealing local government plans and regulations. Such hurdles are particularly inappropriate considering that these plans and regulations have not undergone compliance review by the State and are considered valid upon adoption.

FINDINGS

- ◆ The Hearings Boards have been a very important part of clarifying the substance and intent of GMA.
- ◆ Local government compliance with GMA has been uneven. Those jurisdictions whose plans have been appealed have been held to a higher standard than those whose plans have not.
- ◆ The "clearly erroneous" standard of review before the Hearings Board creates undue hurdles for citizens appealing local government plans and regulations. The previous standard of "preponderance of the evidence" provided a more balanced approach to establishing local government compliance with the law.

RECOMMENDATIONS

- ◆ The state should take a greater role in the review of comprehensive plans and development regulations to ensure that these GMA enactments comply with the law and to achieve greater consistency in the level of compliance.
- ◆ The Act should be amended to reinstate the "preponderance of the evidence" as the standard of review before the Hearings Board.

CONCLUSION

The 10 year anniversary of the Growth Management Act offers an important opportunity to reflect on our experience, and take a much needed step towards the next level of managing growth in Washington. After ten years of experience, the strengths and weakness of the existing approach are fairly clear. Although the Growth Management Act has started important changes in the patterns of growth and development in Washington, we will not succeed in protecting our quality of life without some important new tools and reforms.

The good news is that polls show tremendous concern about the impacts of overdevelopment and support for many smart growth strategies. Over sixty percent of suburban voters favor "strong limits on development to protect quality of life." (Hart, 1999) Nearly half of King County residents believe the county is growing "much too fast." (Gilmore, 1998) Support for impact fees and for investing in mass transit rather than new roads reaches into the high sixties even in the suburbs. (Hart, 1999)

Now is the time to retool and innovate to take advantage of the lessons learned from the Washington experience and the recent experience of other states. Tapping into the public's support and making continued progress on growth management will require diligence and political leadership, but is well worth it. Our quality of life and our future depend on it.

