



American Planning Association
Washington Chapter

Making Great Communities Happen

January 2, 2009

The Honorable Darlene Fairley
Chair, Senate Governmental Operations and Elections Committee
227 John A. Cherberg Building
PO Box 40432
Olympia, WA 98504-0432

The Honorable Geoff Simpson
Chair, House Local Government Committee
426 John L. O'Brien Building
PO Box 40600
Olympia, WA 98504-0600

APA Washington
2009 Smart Growth
Strategy Task Force

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Dear Sen. Fairley and Rep. Simpson:

The Washington Chapter of the American Planning Association (APA Washington) understands that it will be a challenge this session to pass important land use reforms in the face of declining state revenues, financially hard-pressed local governments, and a weakened economy. No less than seven state reports will arrive on your doorstep calling for legislation to:

- Address Climate Change
- Clean up Puget Sound
- Upgrade crumbling utility and transportation infrastructure
- Build compact and livable cities
- Reduce conversion of natural resource lands to urban development
- Lessen the impact of land use restrictions on agricultural landowners

It would be tempting for the legislature to point to an empty cupboard and say "sorry, we know these are important actions to take, but the budget shortfall has tied our hands." We believe that would be an unfounded, even tragic, conclusion. Important progress can be made with straightforward amendments that clarify and strengthen the Growth Management Act without adding financial burdens on either state or local governments. Further, we believe that the legislature has the opportunity to create innovative and powerful new financial tools to enable local governments to address pressing infrastructure needs.

As detailed in the enclosed "*Toward a Smart Growth Strategy for Washington*" document, the 2009 Smart Growth Strategy Task Force of APA Washington believes that carefully crafted legislation can help restore environmental health, economic vitality, and fundamental fairness to our state.

Who is APA Washington, and why do we think our recommendations are practical and achievable? Our 1700 members state-wide share the organization's mission of "*Making Great Communities Happen*" and an ethic of serving the public interest first and foremost. Our members serve both private and public clients, work for cities large and small, counties urban and rural, public universities, state agencies and business associations in all corners of the state.



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Washington Chapter

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The members of APA Washington collectively possess a detailed understanding of the legal and operational framework for planning in this state. We work every day with Washington's citizens, developers, environmentalists, and elected officials in meeting the challenges of land use, transportation, economic and environmental planning. As a chapter of the national planning organization, APA Washington also has access to innovative techniques and lessons learned from many other states, from Maryland to California. In short, we know what works - not just in theory, but in actual practice.

We urge you to review the recommendations in "*Toward a Smart Growth Strategy for Washington*" and to keep this comprehensive and strategic outlook in mind when reviewing legislation in the upcoming session. APA Washington looks forward to working with the many stakeholder groups and the legislature in helping our state and its communities meet the urgent challenges of the day. If I can answer any questions about this letter or enclosure, please do not hesitate to contact me.

Respectfully,

A handwritten signature in black ink, appearing to read 'J. Tovar', with a long, sweeping horizontal line extending to the right.

Joseph W. Tovar, FAICP
President

CC: The Honorable Christine Gregoire, Governor of the State of Washington
Juli Wilkerson, Director, Washington State Department of Community, Trade, and
Economic Development
Jay Manning, Director, Washington State Department of Ecology

Enclosure: *Toward a Smart Growth Strategy for Washington*



TOWARD A SMART GROWTH STRATEGY FOR WASHINGTON

I. This is a Time of Great Crisis

We face today unprecedented environmental and financial crises at the state, national and global levels. While Washington’s statutory planning framework, including the Growth Management, Shoreline Management and State Environmental Policy Acts, has been in place for decades, it is clear that “business as usual” is not working. No less than four independent reports will reach the legislature this session, each describing urgent public policy issues that require bold, effective, and immediate action, including reform to our planning statutes. These include:

- *Leading the Way: Implementing Practical Solutions to the Climate Change Challenge (Climate Change Action Team, CTED);*
- *Land Use and Climate Change Committee - Final Meeting Highlights (CTED);*
- *Puget Sound Action Agenda - Protecting and Restoring the Puget Sound Ecosystem by 2020;*
- *Meeting the Growth Management Challenge in Growing Communities (CTED).*

Although APA Washington agrees with the central conclusions and many of the recommendations in these reports, we believe that pursuing these objectives in a disjointed and incremental manner will limit the chance of success. To that end, we convened a task force of experienced planning practitioners to review these reports in context to one another, to identify the commonalities, gaps and potential conflicts among them. We spent several months monitoring, participating in, and critiquing the reports named above, as well as three others:

- *Creating a Regional Transfer of Development Rights Program for Central Puget Sound (CTED);*
- *Ruckelshaus Center Study on Preserving Agricultural Viability and Protecting Critical Areas - Progress Report No. 2;*
- *Infrastructure Assistance Programs Review and Implementation Plan (OFM).*

Taken together, the findings and recommendations in these reports are sobering. They point to the urgent need for change, perhaps transformational change, in how our communities grow, how we travel, and how we manage both the man-made and natural environments. Our review of these reports suggests a need to identify overarching strategies and specific statutory amendments. It is the purpose of this document to offer both general guidelines and specific recommendations for statutory changes to enable the Growth Management Act to serve as the organizing framework for action.

While some comments herein are general in nature, APA Washington will offer more detailed comments to the legislature as we review bills this coming session. Our interest is in *making great communities happen* – we invite the legislature, stakeholder groups, the media, and interested citizens to call upon us for further assistance in meeting these urgent public policy challenges.

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II. Six Principles to Guide a Smart Growth Strategy

As the Legislature and Governor consider how to deal with the crises of Climate Change, Puget Sound Clean up, loss of resource lands, and infrastructure shortfalls, we offer six principles to guide development of a Smart Growth Strategy for our state:

1. *Build on strong public support for environmental protection.* The defeat of Initiative 933 (the so-called "Property Fairness" initiative) in 2006 demonstrated that our citizens strongly value protecting the environment, including water quality, air quality, and the resource/rural landscape. In 2008, Puget Sound citizens voted to tax themselves \$18 billion for a regional transit system, while voters statewide rejected a simplistic transportation initiative. Washington's citizens grasp the urgent threats to our quality of life and will demand bold initiatives from all of us.
2. *Create statutory clarity.* Focus first on statutory amendments that explain HOW the already mandated planning actions (e.g., plans, regulations, countywide policies) are to be done, before adding more statutory mandates. Deadlines already exist in the Growth Management Act to get these tasks done with whatever resources are already committed.
3. *Promote efficient governance.* Creating new layers of government or bureaucracy (such as those recommended by the Puget Sound Partnership) is inefficient and needless. Instead, we support giving local governments resources, articulating clear standards for issues of compelling state interest such as climate change and water quality, and then holding jurisdictions accountable.
4. *Focus state investments.* Target state funds to support compact development, as well conservation of key natural resources such as shorelines, farms, and forests. Give cities and counties more tools for financing needed infrastructure and reprioritizing how our current dollars are spent. This can be accomplished by aligning state capital expenditures with local comprehensive and capital facilities plans.
5. *Promote housing affordability.* If our cities are going to be the magnets for compact growth, housing choices and affordability must be improved. A wide variety of bold market, nonprofit, and regulatory strategies must be implemented.
6. *Provide resources for planning.* Achieving state-wide goals through local government plans, regulations, and capital budgets will require sufficient funding of local planning efforts in order to engage the local public and stakeholder groups essential to success.

III. Ten Recommendations for Legislative Action

We believe that the Growth Management Act, if clarified and strengthened, can form the organizing framework for implementation of many of the recommendations in these reports. By focusing on some specific changes, the GMA statute can enable our state to successfully address these complex issues. APA Washington supports making these changes in the 2009 session in order to influence the next round of comprehensive plan updates.

1. *Amend RCW 36.70A.020 (10) to recognize the role that compact urban development and multi-modal transportation can play in reducing greenhouse gas emissions.* APA Washington supported this type of amendment in the 2008 session and continues to support it today. Including GMA goal language related to climate change recognizes that reducing vehicle miles traveled and greenhouse gas emissions is a compelling state interest that must be addressed in local comprehensive plans, development regulations and capital budgets.



2. Amend RCW 36.70A.070 (6) to include multimodal transportation strategies in concurrency statutes: include transit-oriented development as a concurrency strategy. Highlighting transit-oriented development (TOD) as a strategy will encourage urban cities to adopt this tested technique for creating compact, complete, and connected communities.
3. Amend 47.80 to require that reductions in vehicle miles traveled and greenhouse gas emissions be addressed regionally. To address these issues, regional transportation planning agencies must include policies, strategies, and capital improvements to address compact urban development, transit supportive residential densities, multimodal transportation, and more. Adoption of these policies must be coordinated with multicounty planning policies adopted pursuant to 36.70A.210 (7).
4. Amend RCW 36.70A.480 and RCW 90.58 to eliminate the gap in the protection of shorelines of the state. The Supreme Court decision in 2008 in *Anacortes v. Western Washington Growth Management Hearings Board* created confusion about how local governments are to comply with the legislative action taken in 2003 by ESHB 1933. Arguably, *Anacortes* eliminated authority for previously adopted GMA critical areas regulations to protect shoreline critical areas until at least 2011 in most Puget Sound counties, and even later than that in other parts of the state. Legislative action is needed to restore shoreline protections by affirming the legislature's intent that all adopted GMA shoreline critical areas regulations continue in force and effect until the Department of Ecology approves a local government's shoreline master program comprehensive update as consistent with shoreline WACs adopted by Ecology.
5. Amend RCW 36.70A.190 to create "safe harbors" for local governments by making GMA-related WAC rules mandatory. WAC rules for GMA implementation are not now mandatory. In contrast, the Shoreline Management Act (SMA) Guidelines, adopted WACs, promulgated by the Department of Ecology, are binding rules. Giving GMA rules the same status as the mandatory SEPA and SMA rules would clarify GMA requirements, increase certainty for all stakeholders, and protect local governments from frivolous appeals.
6. Amend RCW 36.70A.110 to prohibit the expansion of urban growth areas into floodplains. This is one specific example of an intersection between several reports' recommendations: 1) floodplain restoration related to fish enhancement, flood control, aquifer recharge and wetland restoration, and 2) the protection of carbon sequestration and food production values of rural and resource lands. There is plenty of land outside river floodplains to accommodate reasonable UGA expansion. Without such UGA reform, the continued conversion of agricultural lands, property loss due to flooding, and degraded water quality and fish habitat, particularly in Puget Sound, will continue unabated.
7. Amend RCW 36.70A.3201 to restore a balance between local decision making and compelling state interests. GMA was originally designed as a balance of state goals and requirements and the exercise of local discretion. However, the amendment to the GMA standard of review in 1997, as construed by the courts, has tilted this balance heavily towards local deference at the expense of compelling state interests. Amendment to RCW 36.70A.3201 is needed to ensure that compelling state interests, such as reduction of greenhouse gas emissions and the restoration of Puget Sound, are implemented by local decisions, not thwarted by them.
8. Amend RCW 36.70A.040 and .280 to require Special Purpose Districts to plan under the GMA. These districts play a significant role in shaping growth patterns throughout the state. The siting, development and budget decisions of special purposes districts can either undermine or support the achievement of GMA goals, as well as urgent



Climate Change, Puget Sound restoration, and agricultural conservation objectives. However, city and county land use plans and transportation policies are not binding on port, water, sewer, school, and other special districts. In order to ensure all public infrastructure investments are complementary, rather than at cross purposes, special purpose districts must be made subject to consistency with city and county comprehensive plans, and the goals and requirements of the GMA.

9. Amend RCW 36.70A.103 and .280 to make state agencies subject to the GMA as part of a statewide smart growth strategy. For too long, the agencies of state government have been exempted from a true partnership with local governments in implementation of the Growth Management Act; this includes the GMA exemption of state facilities from transportation concurrency, exemption for countywide or multicounty planning policies, and the lack of a mandate to align state capital budget decisions with the goals of the Act. Local governments cannot achieve a truly smart growth strategy without the partnership and participation of state agencies.
10. Provide new local revenue and financing options for cities and counties to support growth and natural resource preservation. Local governments can't be expected to fully fund compelling state interests without additional tools, such local taxing options as utility taxes for counties or more Real Estate Excise Tax flexibility for both cities and counties. Washington's lack of Tax Increment Financing means that cities and regions compete at a severe disadvantage against peers in California and Oregon. It is time to put this powerful community revitalization tool at the disposal of Washington's communities. In addition, the state should assist local governments in utilizing existing revenue authorities by, for example, removing some requirements for voter approval.

IV. A Call to Action

The issues addressed in the recently released state reports are complex and interconnected. They are issues that APA Washington has considered in past years. In 2002, and again in 2005, APA Washington assessed the effectiveness of the GMA and identified proposals for how planning in our state could be improved. These proposals are found in our *Livable Washington* report series posted on the Chapter's website <http://www.washington-apa.org>. Another comprehensive update, focused on sustainability, will be released later in 2009.

In *Livable Washington*, we said "As we begin the 21st century, our shared interests are in seeing the State of Washington continue to have sustainable growth in a beautiful environment." Substantial work and progress have been made through planning and related efforts throughout this state. The GMA is the primary framework for local planning and land use regulation that has guided the efforts of cities and counties for almost two decades.

It is now time for the legislature to fashion a truly comprehensive Strategy to manage growth by strengthening and clarifying the GMA's provisions, assuring that compelling state interests are not thwarted by local decisions, and expanding GMA's scope to include both state agencies and special districts. It is time to target state funds to support local government infrastructure improvements and to expand their financial tools to accommodate growth, reduce greenhouse gas emissions, and restore the health of Puget Sound.

A time of great crisis is also a time of great opportunity. We call upon the Governor and the legislature to seize this unique opportunity.