

Schroader, Kathy



From: Orjiako, Oliver
Sent: Thursday, May 26, 2016 2:49 PM
To: Schroader, Kathy, Steve Dijulio (steve.dijulio@foster.com), Tilton, Rebecca, Albrecht, Gary, Alvarez, Jose, Anderson, Colete, Euler, Gordon, Hermen, Matt, Kamp, Jacqueline, Lumbantobing, Sharon, Wisner, Sonja, Boldt, Marc, Madore, David, Mielke, Tom, Olson, Julie (Councilor), Stewart, Jeanne, Bill Wright, Eileen Quiring, John Blom-Hasson, Karl Johnson, Richard Bender, Ron Barca-Boeing, Ron Barca-MSN, Steve Morasch (stevem@landerholm.com)
Cc: Albrecht, Gary, Alvarez, Jose, Anderson, Colete, Euler, Gordon, Hermen, Matt, Kamp, Jacqueline, Lebowsky, Laurie, Lumbantobing, Sharon, Orjiako, Oliver, Schroader, Kathy, Wisner, Sonja
Subject: RE GMA compliance status

All

For clarification, the two rulings I was referring to are "Findings of Fact, Conclusions of Law and Order # 96-2-00080-02 dated April 4, 1997 and Order on Reconsideration #96-2-00080-2 dated 6-11-1997. You should all have copies of the rulings. What is not provided is what the county did in response. You should all have documentations of how Clark County complied with all the remand from Judge Poyfair following the extensive work of a citizen task force appointed by the Commissioners at the time, a series of public hearings before the Planning Commission, Board of County Commissioners and compliance hearings before the Growth Management Hearings Board. While I did not work on any of the rural issues, but I am aware that some of the CCCU members served on the task force. The county's comprehensive plan is currently in compliance with GMA and there are no outstanding issues. Please, let me know if you have questions. Thank you very much.

Best,

Oliver

From: Schroader, Kathy
Sent: Thursday, May 26, 2016 2:21 PM
To: Steve Dijulio (steve.dijulio@foster.com); Tilton, Rebecca; Albrecht, Gary; Alvarez, Jose; Anderson, Colete; Euler, Gordon; Hermen, Matt; Kamp, Jacqueline, Lumbantobing, Sharon, Orjiako, Oliver; Schroader, Kathy; Wisner, Sonja; Boldt, Marc, Madore, David; Mielke, Tom; Olson, Julie (Councilor); Stewart, Jeanne; Bill Wright; Eileen Quiring; John Blom-Hasson; Karl Johnson; Richard Bender; Ron Barca-Boeing, Ron Barca-MSN; Steve Morasch (stevem@landerholm.com)
Subject: FW: GMA compliance status

Comment

Kathy Schroader, Office Assistant II

Community Planning Department

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kathy.schroader@clark.wa.gov

From: susan rasmussen [<mailto:sprazz@outlook.com>]
Sent: Wednesday, May 25, 2016 5:01 PM
To: Cnty 2016 Comp Plan; Boldt, Marc; Stewart, Jeanne; Boldt, Marc; Olson, Julie (Councilor); Mielke, Tom; Madore, David
Subject: FW: GMA compliance status

Sent from Mail for Windows 10

From: susan rasmussen

Sent: Wednesday, May 25, 2016 12:46 PM

To:

Subject: RE: GMA compliance status

Mr. DiJulio has an obligation to become familiar with the history of CCCU's court actions since they are tied to the county's GMA planning history. He should become well acquainted with the Superior Court Orders, 4/4/1997, FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER, and The PUBLISHED OPINION of the Court of Appeals, Division II, 3/12/1999.

Revealed in last night's proceedings, Dr. Orjiako recognizes only two of the three elements in the Superior Court Orders, (Dr. Orjiako's says, "limiting of 2 rulings") I'm guessing the two elements in the Superior Court Ruling he references are

- 1) return of the rural centers
- 2) Corrections of the agri-forest zoning

Dr. Orjiako's statement demonstrates a misunderstanding of the Superior Court Orders. A well-reasoned understanding of Judge Poyfair's decisions (as written in the Superior Court, No 96-2-00080-2, FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER, and the PUBLISHED OPINION from the Court of Appeals,) clearly indicate there are three elements in the ruling. Here is where we have a difference of opinions.

The Poyfair decision also includes the Board's "unauthorized formula," and the county's decision to use it. By inference, this includes all implications resulting from the county's application of the formula to the comprehensive plan. This is the third, and most critical element in the Superior Court ruling because it is an overarching decision. It is crucial to thoroughly understand all the various implications stemming from Judge Poyfair's decision here. Because the county based the comprehensive plan, (including all land use and zoning regulations), on an erroneous formula, the plan fails to have a lawful foundation. This implies the entire county comprehensive plan is impacted by the erroneous formula.

The county has never recognized Judge Poyfair's overarching decision and sought to correct and properly remedy all the resulting impacts stemming from the unauthorized formula. The "cap on rural growth" (directly from the erroneous formula) remains strongly linked to the county's comprehensive plan in use today.

- I The WWGMHB compelled the county to apply a formulaic view
- II The County followed the Board's lead and applied the formula
 - A The formulaic view compelled the county to "cap rural growth"
 - a The county downzoned substantial portions of the rural areas
 - i *The county failed to develop the factors from the record and the GMA necessary to support its decision (Pg 4, Poyfair Decision)*
 - b *The result is a plan that gives little regard for the realities of existing rural development (Pg 7, Poyfair Decision)*
 - c *This is in direct contradiction of the terms of the GMA (Pg 7, Poyfair Decision)*
- III This formulaic view was deemed erroneous by the Superior Court, No 96-2-00080-2, FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER, Poyfair Decision
 - A *The Board had an end in sight, restricting growth in rural areas, (Pg 6)*
 - a *This formulaic view of the GMA requirements is fatally flawed (Pg 6)*

- i *The Board disregarded GMA's mandate (Pg 6)*
- ii *Applied an unauthorized formula to the review of the Clark County comprehensive plan's land use regulations (Pg 6)*
- iii *The Board's interpretation was erroneous (Pg 6)*
- iv *The County's rural and resource development regulations are inconsistent with the GMA (Pg 6)*

Because the county fails to acknowledge the third element, it remains unresolved. The unauthorized formula remains in place, and the "cap on rural growth" is extensively attached to the comprehensive plan. Judge Poyfair intended for the Superior Court Orders to have a transformative effect over the entire complexion of the plan.

Respectfully Submitted,
Susan Rasmussen for CCCU, Inc
Sent from Mail for Windows 10

From:
Sent: Wednesday, May 25, 2016 10:12 AM
To:
Subject: FW: GMA compliance status

From: Stephen DiJulio [<mailto:steve.dijulio@foster.com>]
Sent: Wednesday, May 25, 2016 9:16 AM
To: Boldt, Marc; Stewart, Jeanne; Olson, Julie (Councilor), Mielke, Tom; Madore, David
Cc: McCauley, Mark
Subject: RE: GMA compliance status

Mark has addressed in emails last night two matters of interest that were raised at last night's meeting (one in his email below). I will be following up on certain other matters.

I am aware of the references to Judge Poyfair rulings from the past comp plan efforts (addressed in Mark's separate email to you at 10:10 last night). I understand there is a long history of disputes over the County's past planning efforts. And, I am certainly not knowledgeable about all of the particulars of the past disputes. But, the County is looking forward, not back. Attached is the 2014 ruling of the Growth Board regarding the County's more recent comp plan efforts. The County is in compliance currently. References to past noncompliance rulings appear to be a distraction and counterproductive to current efforts. In a separate email (not likely I will get to today), I will discuss our Supreme Court's more recent holdings on comp plan challenges and the interplay between old and new plans.

Other issues I will be reviewing, include

- Population projection standards
- Alternatives. If there is support by Council for other than the identified preferred alternative, is additional process required? Now? In next or another year's planning cycle?
- Accessory Dwelling Units. If consideration given to addition to three rural zones of R, AG and FR, is additional process needed?
- Guest Houses. Is additional process needed if standards for guest house uses modified?

- County/city authority over UGAs. Questions have arisen regarding parcels outside but adjacent to UGAs. What if City has not planned for such parcels, but County believes parcels appropriate for inclusion? Note, this may be a fact-based issue that I will not be able to address to the level of specificity desired. But, I will provide general background for County control over UGAs, as I did last night.

I am mindful that these issues may be individual issues and may not have majority support of members of the Planning Commission or of the County Council. I will regularly check with Mark to be sure that we are not exceeding the scope of our engagement by the County.

I understand that I am next expected in County for Planning Commission meeting/deliberations next Thursday night. You all have my card and know how to contact me if questions or comments. But, Mark is the better conduit for most communications.

Thanks,

Steve

P. Stephen (Steve) DiJulio
ATTORNEY

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-----Original Message-----

From: McCauley, Mark [<mailto:Mark.McCauley@clark.wa.gov>]

Sent: Tuesday, May 24, 2016 8:18 PM

To: Boldt, Marc; Stewart, Jeanne; Olson, Julie (Councilor); Mielke, Tom; Madore, David

Cc: Stephen DiJulio

Subject: GMA compliance status

Councilors, here is the link to the most current Department of Commerce GMA compliance status spreadsheet discussed in the 24 May Joint Planning Commission/County Council Hearing. Mark

<http://www.commerce.wa.gov/Documents/May-5-Compliance-List.pdf>

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