

Schroader, Kathy



From: susan rasmussen <sprazz@outlook.com>
Sent: Wednesday, May 11, 2016 6:14 PM
To: Cnty 2016 Comp Plan
Cc: Boldt, Marc, Stewart, Jeanne, Olson, Julie (Councilor), Madore, David, Mielke, Tom
Subject: Superior Court Orders and the Court of Appeals

Written in the Superior Court Orders by Judge Edwin Poyfair, No 96-2-00080-2, April 4, 1997

CONCLUSIONS OF LAW, Page 026, #4, Agri-Forest Lands Line 22-25

The Board had an end in sight (restricting growth in rural areas), but failed to develop the factors from the record and the GMA necessary to support its decision. The Board erroneously interpreted and applied the GMA when it failed to require the agri-forest resource lands meet the statutorily mandated definitional criteria for resource lands. Furthermore, there is no substantial evidence in the record to support the designations of agri-forest lands as resource lands under the GMA.

CONCLUSIONS OF LAW, Page 028, #7 Rural Land Densities Line 14-19

This formulaic view of the GMA requirements is fatally flawed There is no requirement in the GMA and the OFM projections be used in any manner other than as a measure to ensure urban growth areas are adequately sized and infrastructure in those growth areas is provided for **This Board decision, however, compelled the County to downzone substantial portions of the rural areas in order to meet the Board's apparent requirements.**

CONCLUSIONS OF LAW, Page 028, #7, Rural Land Densities Line 20

The only requirement for rural areas in the GMA is that growth in rural areas not be urban in character. While the GMA contains no restrictions on rural growth, it does require a variety of residential densities. By **trying to comply with the Board's errant decision, the county violated a GMA planning goal.**

Court of Appeals, Division II, NO 22164-1-II, PUBLISHED OPINION, March 12, 1999 Page 3

Notwithstanding the designation of urban growth areas, **a county may allow non-urban or "rural" growth outside those areas.** "Non-urban" or "rural" growth encompasses "a variety of uses and residential densities, including clustered residential development," **provided that such uses and densities are "not characterized by urban growth," and are "consistent with rural character."**

Court of Appeals, Page 4, The Superior Court said in part

It is evident the rural land use density regulations were driven in part by earlier Growth Management Hearing Board decisions requiring urban population plus rural population to equal Office of Financial Management population forecasts (Citation omitted) **This formulaic view of the GMA is fatally flawed** There is no requirement in the GMA that the OFM projections be used in any manner other than as a measure to ensure urban growth areas are adequately sized and infrastructure in those growth areas is provided

For The Board's requirement to, in essence, require a vacant buildable lands analysis
For the rural area was erroneous **This Board decision, however, compelled the County
To downzone substantial portions of the rural areas in order to meet the Board's apparent
Requirements.**

Court of Appeals, Page 6

**Nothing in the GMA provides that a county must use OFM's population projections for any
Other purpose. More particularly, nothing in the GMA provides that a county must use OFM's
Population projections as a cap or ceiling when planning for non-urban growth. Construed
According to its plain meaning, then, the GMA does not require counties to use OFM's
Population projections as a cap or ceiling on non-urban growth.**

Respectfully submitted,
Susan Rasmussen for
Clark County Citizens United, Inc O

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