

STATE OF WASHINGTON
County of Jefferson

AN ORDINANCE APPROVING	}	
MASTER LAND USE APPLICATION	}	ORDINANCE NO. <u>17-1213-04</u>
#04-28, ADOPTING AMENDMENTS TO	}	
THE COUNTY'S COMPREHENSIVE	}	
PLAN AND UNIFIED DEVELOPMENT	}	
CODE TO COMPLY WITH THE 7-YEAR	}	
UPDATE MANDATED BY STATE LAW	}	
AND THE PERIODIC ASSESSMENT	}	
ESTABLISHED BY THIS COUNTY	}	

WHEREAS, the Board of Jefferson County Commissioners ("the Board") has, as required by the Growth Management Act, as codified at RCW 36.70A.010 et seq., set in motion and now completed the proper professional review and public notice and comment with respect to any and all proposed amendments to the County's *Comprehensive Plan* (or "CP") originally adopted by Resolution No. 72-98 on August 28, 1998 and as subsequently amended and;

WHEREAS, the Growth Management Act (or "GMA") establishes a schedule for mandatory reviews, and if necessary, updates of local jurisdiction comprehensive plans and implementing regulations [known locally as the Unified Development Code or "UDC"] to ensure compliance with the Act; and,

WHEREAS, the proposed CP amendments (with associated changes to the UDC) known as MLA04-28 Part A and Part B, address the 7-year GMA update required by statute and the 5-year Planning Commission assessment to the Comprehensive Plan required by the UDC at UDC §9.5.4(a), respectively; and,

WHEREAS, the County's CP and the UDC are and should be 'living documents' that reflect changes in state law, state regulations, County-wide attitudes and additional policy decisions by the County's legislators; and

WHEREAS, the proposed CP amendment known as MLA #04-28 has been approved by the Board during the second week of December as required by the County's UDC.

The Board makes the following Findings of Fact with respect to this MLA:

1. The County adopted its CP in August 1998, eight (8) years after the GMA became state law.
2. Jefferson County adopted development regulations known as the Unified Development Code (UDC) in December 2000, effective January 16, 2001.
3. The GMA, which mandates that Jefferson County generate and adopt a CP, also requires that there be in place a process to amend the CP.
4. This Ordinance is the result of the annual CP amendment cycle process for 2004 and includes, in order to legislate development regulations that reflect best available science as it applies to GMA critical areas, amendments to the County's UDC.
5. Complete review and re-evaluation of the CP for this County comes when this County's CP is only six (6) years old.
6. Part A of MLA 04-28 is made necessary by RCW 36.70A.130(4), which requires this County to "take action to review and, if needed, revise its [CP] and development regulations to ensure [GMA compliance.]"
7. The review process included a public participation program:
 - a) In conjunction with the State Department of Community, Trade, and Economic Development (CTED) and the Planning Association of Washington (PAW), Jefferson County hosted "A Short Course on Local Planning" in the Tri-Area Community Center on August 9. A key theme of the meeting was the growth management update required in 2004.
 - b) County staff hosted a "Roundtable Workshop on the 2004 Update" at WSU Extension in Hadlock on September 7. The purpose of the meeting was to present information on the 2004 growth management update to interested members of the public and to engage in discussion.

- c) The County Department of Community Development (DCD) created and maintained webpages dedicated to the 2004 growth management update process and the 2004 Comprehensive Plan amendment cycle.
8. The County, in an effort to comply with RCW 36.70A.130(4), has reviewed its CP and UDC and through this Ordinance adopted revisions thereto in order to ensure compliance with the Act. This Ordinance culminates the year 2004 review and revision as mandated for Jefferson County by RCW 36.70A.130(4).
 9. Because the date of adoption for the UDC (2000) came after the date when the requirement that local governments planning under the GMA use 'best available science' [or "BAS"] when designating and protecting 'critical areas' was inserted into the GMA (1995), the UDC contains much regulatory text that adopted after consideration of BAS.
 10. The newest findings and conclusions relating to BAS were studied, analyzed and considered in a document entitled "Review of [BAS]" for 2004 [CP] and Development Regulation Update authored by one David Christensen, formerly the County's Manager of Natural Resources.
 11. The Christensen report, hereafter referred to as "Review of BAS", is Item 5.17 of the DCD staff report (and SEPA-driven analysis) dated September 22, 2004 and has been available to the public for comment and review since that time.
 12. Also available for review and comment by the public since September 22, 2004 was the DCD analysis of the tasks required to complete the 7-year statutorily mandated update, which starts at page 2-37 of that DCD staff report.
 13. Jefferson County has some fortunate local circumstances that impact on what regulations should be in place to effectuate BAS.
 14. The Review of BAS report concluded that 89 percent of the County's land mass, or nearly nine acres out of ten, is not likely to be developed, as the Olympic National Park represents 46 percent of the County's land mass, federal and state forestlands represent another 31 percent of the County and privately-held forests account for another 12 percent of the County.

15. Currently Jefferson County has some 330,000 acres (or more than 500 square miles in a County of some 1,800 square miles) of parcels provided with a Commercial Forest designation for GMA purposes. Residential development on those parcels, although very unlikely to occur, will be at a maximum density of 1 residence per 20 acres and more commonly at 1 residence per 40 or 80 acres. This information, while not part of the Review of BAS report, was and is highly relevant to our legislative decision.
16. Jefferson County at present has about 62,000 acres (or about 100 square miles) zoned rural residential, where the maximum density is 1 residential unit per 5 acres and is more typically 1 residence per 10 or 20 acres. While not found in the Review of BAS report, this information was and is important to our legislative decision.
17. Maintaining these low densities on 600 square miles of a 1,800 square mile County is a key method used by this County to protect its critical areas.
18. Additionally, Jefferson County was the first County to give regulatory effect to the *Stormwater Management Manual for Western Washington* (known as the 2001 Stormwater Manual), a fact not in the Review of BAS report, but nevertheless relevant to our legislative decision.
19. The 2001 Manual lowers the threshold of what is considered 'de minimus' grading and clearing, and thus not required to obtain a stormwater management permit. By forcing more clearing and grading efforts (proposals) into obtaining a stormwater management permit the County also promotes and enhances its critical areas.
20. In that same vein only one watershed in the County (lower Chimacum Creek) is anticipated to have more than 10 percent impervious surfaces by the end of the 20-year planning period that ends in 2024. At the end of the planning period some watersheds in this County will have impervious surfaces that amount to less than two (2) percent of the land mass in that watershed.
21. Mr. Christensen informed us of these facts in his comment letter dated November 15, 2004, a letter reviewed and considered by all three elected County Commissioners in making their decisions with respect to BAS and what regulatory text should be adopted.

22. But the Review of BAS report requires further discussion within this Ordinance.
23. The author of the "Review of BAS" report analyzes the five (5) categories of critical areas (as that term of art is defined in the GMA) and compares the current regulatory scheme in the UDC with his understanding of current BAS.
24. For example, the State Department of Natural Resources or "DNR" has generated new rules that should be used when determining (called "typing") the importance of streams for fish and wildlife. These new rules include a different nomenclature for the stream 'types.'
25. New scientific studies, purporting to be BAS, conclude that wetlands require larger buffers.
26. Regarding wetland buffers, the Review of BAS report recommended an increase in the standard buffer for Category I wetlands (the highest quality wetlands) of 33 percent to 200 feet and a similar increase of 33 percent to 300 feet of buffer before there can be a waiver from UDC requirements that the applicant file an expert's report (often known as a wetlands delineation) with the County planning staff.
27. Regarding fish and wildlife habitat conservation areas, which are protected by 'typing' streams and/or requiring setbacks from marine or salt water habitats as well as wildlife habitats, the Review of BAS proposed a new chart providing stream buffers for the new 'typing' nomenclature established by State DNR. They provide for buffers of up to 150 feet on the biggest (usually measured by volume) streams, since those streams are almost certainly likely to serve as salmon habitat.
28. This Board learned at its deliberations on this Ordinance on December 13, 2004 that with respect to marine shorelines, the GMA and the 1971 Shoreline Management Act ("SMA"), Ch. 90.58 RCW, were recently amended in an attempt to direct how and when marine shorelines should be considered a GMA 'critical area' and how protection of those areas should be addressed procedurally through critical areas ordinances, the Shoreline Master Program adopted locally pursuant to SMA, or both. Few, if any, local

jurisdictions have adopted development regulations that integrate these statutes in this regard and questions remain as to exactly how this integration will be accomplished.

29. RCW 36.70A.480 was amended by the State Legislature in 2003 to expressly include two concepts: A) a local government is authorized to regulate a near-shore location both under the GMA as a 'critical area' and under the applicable Shoreline Master Program, and B) the protection offered a marine shoreline must be equal under the SMA and the GMA-derived development regulations.
30. The above-described amendments to RCW 36.70A.480 led to a confusing situation because suddenly local governments had responsibility for a new GMA 'critical area' but the corresponding BAS that would lead to appropriate development regulations being enacted did not and does not currently exist. The proverbial "cart" had been put before the "horse."
31. Despite these limitations and inherent challenges, the Review of BAS report suggested for marine shorelines an enactment of regulations requiring vegetated buffers of 100 feet, with the 50 feet nearest the marine shoreline being maintained in native vegetation and the second 50 feet being a managed "outer core" with native vegetation encouraged and pesticides and fertilizers prohibited.
32. With respect to wildlife habitat, the Review of BAS report proposed to have in the UDC language that encourages persons subdividing land in what are called Core Wildlife Habitat Areas to cluster their homes on a portion of the parcel(s), leaving the rest of the land untouched.
33. Encouragement of clustering will promote and protect the existing "wildlife habitat network" found to exist in this County, a series of connected high quality habitat patches and vegetated corridors located throughout the County, analyzed and written about by S. Tomassi in 2004. The Review of BAS report relied upon the Tomassi report in reaching his conclusions relating to wildlife habitat.

34. In the Review of BAS, Christensen concluded the County's regulatory scheme complied with current BAS with respect to Aquifer Recharge Areas and Geologically Hazardous Areas.
35. Regarding Flood Hazard Areas, wrote Christensen, the City of Port Townsend and the County were jointly working on assuring mutual cooperation should such a disaster occur and thus the UDC remained current with BAS as it is known at this time.
36. The County has also obtained a study that maps the channel migration zones (CMZs) for the major rivers of East Jefferson County, including the Duckabush, Dosewallips, Big Quilcene and Little Quilcene Rivers. This information will be quite useful when landowners apply for land use permits in the vicinity of any of those rivers.
37. The Review of BAS included recommendations that the County, at a minimum, restrict development to outside of the CMZ, to reduce risk to public safety and fish habitat, consistent with BAS.
38. There have been comments from state agencies and citizens' groups asserting that the County should adopt more stringent regulations, e.g. wider buffers for wetlands, marine shorelines and what are now known as Ns (non-salmon) waters or streams.
39. One State Department of Fish and Wildlife (or "DFW") representative stated that the wetland buffers adopted here are "at the lower end of the recommended buffer widths within both [CTED and DOE] document[s.]"
40. That same DFW representative stated that the adopted buffers applicable to 'Ns' [non-salmon bearing] streams was far below what BAS recommends. The DFW representative argues that 'Ns' streams are feeders to streams that are salmon habitat and thus the same functions that need protecting in a salmon-bearing stream need parallel protection in non-salmon or 'Ns' streams. If the needs in both types of streams are the same, then the protection offered should be the same according to this logic.
41. Such logic is not consistent with BAS because BAS does not state that type Np and Ns streams must be afforded protections equal to larger streams to protect stream habitat

functions. Such logic incorrectly presumes that all of the same functions must be preserved in all types of streams, whether or not they are fish-bearing streams.

42. BAS does not require local governments to adopt such 'broad strokes.'
43. Such logic also would negate the need for creating the "Np" and "Ns" type streams.
44. The DFW representative also asserts that marine shorelines should receive the same buffer (150 feet) that this Ordinance adopts for what the new 'typing' nomenclature calls a Type 'S' [salmon-bearing] stream.
45. The same DFW representative stated that the buffers under the new 'typing' nomenclature should be measured from the outside of the CMZ, i.e., for a development proposal at or near a CMZ the no-touch zone would then be the entire CMZ in question PLUS the buffer distance in place for that 'type' of stream.
46. One representative from the State Department of Ecology expressed concern that the adopted wetland buffer widths had disadvantages because for a particular category of wetland (they are categorized as I, II, III and IV) the buffer was one-size fits all.
47. The Ecology representative, among other concerns, recommended that buffer widths for a specific category of wetland be flexible, i.e., determined by A) the width needed to protect the existing functions and values, B) the intensity of the proposed development and C) the specific wetland functions that need protecting. The Ecology letter included the admission that this system "appears complicated," but also informed the County that both Pierce and King County have adopted variations of this system and found it to be workable.
48. The Ecology letter also revealed that the three-part, site-specific analysis that Ecology has recommended local governments use when determining (with respect to a specific land use proposal) what would be the proper size for a particular wetland buffer (what Ecology calls "Alternative 3") represents a draft proposal not yet codified or adopted by Ecology.
49. While Ecology has informed the County that adoption of the guidance documents that include, among other items, Alternative 3 and the buffer widths suggested to this County

is likely to occur in early 2005, that did not prove helpful to this Board, which faced a statutorily-imposed deadline of December 1, 2004 to review and re-evaluate its critical areas Ordinances.

50. In light of the above, and for reasons listed below, this Board chooses not to act ahead of Ecology by imposing through a County Ordinance the wetland buffers of Alternative 3 that Ecology itself has not yet 'blessed' with formal adoption. The system is set up so that state agencies, rather than local governments, are the first to enter the 'new frontier' of BAS.
51. Additionally, this County is vastly dissimilar to King or Pierce County, the counties that have apparently adopted Alternative 3 or similar alternative methodology based on the draft Ecology guidance documents.
52. This County is not King or Pierce County simply because it is neither urbanized to the extent those counties are [the County has 1,808 square miles, less than 1% of which is located inside an UGA] nor does it have the staff resources to commit to such a complex program.
53. The preceding statement is based, in part, on the fact that the City of Port Townsend contains approximately eight or nine square miles, according to City planning staff.
54. Ecology was also concerned that wetlands of up to 10,000 square feet would continue to be exempt from regulation or the need for a 'wetlands delineation' if development was proposed at a site in the vicinity of that smaller wetland.
55. Such a statement is only partially true because UDC §3.6.9(a)(2) only exempts wetlands that are less than 10,000 feet in size if they are a Type III or Type IV wetland. For the more 'valuable' wetlands, specifically Type I and Type II wetlands, the threshold at which regulation (or an expert's report) is required is 1/4th as much, or 2,500 square feet.
56. A citizen's group known as the Washington Environmental Council (or "WEC") also asked that the County adopt for wetland buffers the flexible and more site-specific system now in place in King and Pierce Counties. The logic arguing against the appropriateness of such a system for Jefferson County has been stated above.

57. WEC also asked that the marine shoreline buffer be established at 150 feet rather than 100 feet because they state that marine shorelines have the same functions as salmon bearing streams (known as Type S in the new nomenclature).
58. The Review of BAS report states explicitly that marine shorelines do not have the same functions and values that need to be protected as the largest salmon bearing streams and direct comparison between the two is not justified for habitat protection standards.
59. The functions and values of marine shorelines and Type S streams differ in at least three important ways.
60. First, the delivery of sediment (via erosion or slides), while harmful to a Type S stream, is an important habitat-forming process to marine shorelines. Thus the Type S streams require greater buffers between development activities and the shoreline.
61. Secondly, the food web in streams and rivers is predominantly from watershed-derived sources, i.e., terrestrial sources, while the food sources of the marine near-shore ecosystem are predominantly marine-derived. Again, this argues for providing greater protections for the land adjacent to a Type S stream than for the land adjacent to marine shorelines.
62. Finally, while large woody debris coming from the adjacent land and falling into the Type S stream creates habitat for salmonids in Type S streams, salmonids found in the marine near-shore environment are not dependent on woody debris to create habitat. Instead salmonids reside in vegetated areas such as estuaries, eel grass and kelp. Thus, the standards that promote large woody debris in Type S streams are not relevant for marine shoreline locations to support salmonids.
63. Because it remains unclear exactly when and how marine shorelines should be designated and regulated as GMA 'critical areas' and because the analogy between salmon-bearing streams and marine shorelines is inexact and supported by few or no peer-reviewed scientific studies, this Board finds that there is, at present, no established BAS with respect to marine shorelines.

64. After review of the Christensen report of September 22, 2004, the DCD staff report of that same date, the comment letters described (in part) above including the Christensen letter of November 15, 2004 and the facts listed above the Board concludes that it has considered, utilized, implemented and adopted development regulations that reflect a substantive consideration of BAS in a manner that is consistent with RCW 36.70A.172 and appropriate given the local circumstances extant in this County at this time and as forecast for the 20-year planning period.
65. The County legislature must also work to find the proper balance among the 13 GMA goals, which include #10 (environment), #5 (economic development) and #6 (property rights) and these adopted development regulations do so. This is true because, according to the *H.E.A.L* case from 1999, BAS is neither subordinate nor superior to the GMA goals listed at RCW 36.70A.020.
66. Enactment of this Ordinance supports, furthers and implements ENG 9.0, 10.0, 11.0, 12.0, 13.0, 14.0, and their supporting policies, as found in the Jefferson County CP element entitled "Environment."
67. Protections for fish and wildlife habitat should be reviewed as new information becomes available to keep regulations current with BAS.
68. The UDC Section 3, which is readopted in its entirety by this Ordinance, includes appropriate regulatory standards for this County because those development regulations work in conjunction with the following facts:
- a) 89% of the County is unlikely to be the subject of any permanent development because it is either land set aside for recreation or timber harvests,
 - b) there are indications that only one of the various watersheds in the County will be developed by the year 2024 with as much as ten (10) percent impervious surface with other watersheds not reaching two percent (2%) impervious surfaces,
 - c) less than one percent (<1%) of the County is inside an UGA, and of the 10 or 11 square miles of this County that are found within a UGA, only two of them are within County jurisdiction, the same two of which are the only ones that sit upon a watershed that supports a salmonid population,

- d) the County has rules in place establishing maximum rural residential densities of one residence per five acres decreasing down to one residence per 80 acres in Commercial Forest lands, and
 - e) the County has adopted the 2001 Ecology *Stormwater Management Manual for Western Washington* and therefore administers stormwater management regulations that are likely to be more stringent or as stringent as those of any local government of this State.
69. Separately, MLA 04-28, Part A meets the requirements of the GMA update because the County's CP, as amended by Part A, now utilizes and relies upon new population projections and allocations.
70. This Board and the governing body of the City of Port Townsend, acting collaboratively, separately adopted a new population growth forecast based on the middle range as determined by Washington State Office of Financial Management. This Board's decision in that regard was memorialized in Resolution #55-03.
71. Resolution #55-03 indicates that the growth in population of Jefferson County has slowed, leading to a much different ultimate population forecast for the last year of the planning period, specifically instead of about 39,900 citizens expected in 2016 according to the prior forecast, this new population forecast expects 40,100 (only 200 more persons) citizens to be present in this County in 2024, a date eight (8) years later than the end date of the original planning period.
72. This slower rate of growth will, as a corollary, place less of a strain on the environment of this County.
73. That projected population growth is allocated between the City of Port Townsend, the Irondale/Hadlock UGA, the Port Ludlow Master Planned Resort, and rural areas of Jefferson County.
74. Capital facilities planning serves to estimate future demand for public services based on the approved population projection and allocation and the County's ability to provide service based on existing facilities adopted level of service, and when necessary, the affordability of expanding services to meet population growth.

75. Chapter 12, as adopted, delineates the County's plans for the next six-year planning period, the years 2005 through and including 2010.
76. A summary of the changes to the Capital Facilities chapter of the CP (Chapter 12) as proposed by staff are made part of the September 22, 2004 staff report at pages 2-39 and 2-40.
77. The staff-proposed "Chapter 12-Capital Facilities" is reflected in the pages found at Item 5.16 made part of the September 22, 2004 staff report and replacement pages for p. 12-52 and 12-53 provided to this Board (and the public) on or about November 10, 2004.
78. Chapter 10 of the CP, entitled "Transportation," is also updated by the adoption of this Ordinance.
79. The staff-proposed text for Chapter 10, which is adopted by enactment of this Ordinance, was made part of the staff report dated September 22, 2004. See p. 2-38 and 2-39 of that staff report as well as items 5.13 and 5.14 made part of that staff report.
80. Chapter 11 of the CP, entitled "Utilities" is also updated by the adoption of this Ordinance.
81. The staff-proposed version of the updated Chapter 11 was provided to this Board as part of an agenda item discussed on Monday November 15, 2004 for possible later adoption.
82. Chapter 11, as proposed by staff, is also discussed in the September 22, 2004 staff report at page 2-39.
83. Because the County could not meet the statutory deadline for completing the 7-year statutorily mandated deadline for legislatively adopting an update to the County's CP, this Board adopted Resolution #63-04 stating that the County will not be able to adopt the required amendments by the statutory deadline of December 1, 2004, and anticipates no substantial negative consequence for failing to take legislative action on said proposals prior to the statutory deadline.
84. This Board has missed the statutory deadline by less than 20 days through adoption of this Ordinance.

85. Part B of MLA 04-28, the 5-year assessment of the CP, is the logical consequence of the clear intent of the County's CP that the CP be a living and flexible document. By way of example only the CP text states that "ongoing public involvement" is the fifth planning objective of the CP and the CP also describes in detail the process by which the County annually undertakes a process by which citizens and staff can propose amendments to the CP.
86. The UDC at §9.5.4(a), in furtherance of the clear intent of the CP described in the Finding immediately above, mandates that the Planning Commission undertake a review of the CP every fifth year.
87. The Planning Commission Comprehensive Plan Review Committee developed its recommendation for the Planning Commission in meetings held from April to November. The meetings were open to the public:
- a) A legal notice in the paper of record announced a regular meeting schedule.
 - b) DCD made efforts to provide notice of individual meetings through information in the "Eye on Jefferson" section of the *Peninsula Daily News* and the "Government Meetings" section of the *Port Townsend & Jefferson County Leader*.
 - c) The Planning Commission section of the DCD website also presented updated information about Committee meetings.
88. The full Planning Commission discussed the Committee-generated preliminary proposals on the following meeting dates: July 7, July 21, August 4, August 17, September 1, and September 15. These meetings were publicly noticed and informal public comments were welcomed.
89. The Planning Commission approved a draft proposal on September 1, 2004 for review by the public and by staff.
90. The Planning Commission described the guidelines it had used and the objectives it had hoped to achieve during this 5-year assessment in a memo to planning staff dated September 15, 2004 and made part of the September 22, 2004 staff report as Item 5.19.

91. Among the objectives aimed for by the Planning Commission were the removal of A) language that described actions previously completed as actions that needed to be completed, B) obsolete statistics such as how many persons were getting housing assistance in 1996, C) regulatory language made redundant because the County has a distinct and complete set of development regulations, the UDC and D) language in conflict with decisions issued by our regional Hearings Board.
92. DCD issued an integrated Staff Report and SEPA Addendum on September 22 for the whole of the 2004 Comprehensive Plan Amendment Docket, which included proposals under MLA04-28. A formal written comment period lasted from September 22 through October 13. The Planning Commission held a duly noticed public hearing on the proposed amendments on October 6, where oral comments were delivered. Written comment was collected through October 13.
93. DCD Long-Range Planning staff sent its response to the Planning Commission proposal to amend the Comprehensive Plan under MLA04-28 Part B in the form of response versions of Plan elements on October 29 and November 5 via the US mail system.
94. The Planning Commission discussed the public comments during deliberations.
95. The Planning Commission approved its recommendation and forwarded them to this Board on November 3 and 10. The recommendations of the Planning Commission for *the most part* dovetail precisely with what County planning staff has recommended.
96. The staff report dated September 22, 2004 discusses at pages 2-41 through 2-47 the revisions and additions to the CP proposed by the Planning Commission and staff as part of MLA #04-28, Part B.
97. By way of example only, the staff proposals delete references in the CP to the County re-examining in the future the boundaries of Type I (pre-July 1, 1990) LAMIRD.
98. Similarly, other outdated policies were removed from the Land Use and Rural Element, such as LNP 4.3, 4.6, 4.7 and 4.8.
99. By way of example only, the staff proposals insert references to Industrial Land Banks, a new legislative creation that is available to the County through the end of 2007.

100. This Board held a public hearing on MLA 04-28, Parts A and B, on December 6, 2004.
101. Some half-dozen persons gave testimony on MLA 04-28 at that hearing and most of those persons opposed the adoption of MLA 04-28 for various reasons. Some opponents felt Part B represented a covert attempt to change the policy direction of the CP, while others felt that Part B should be subject to additional public process or represented an action by a 'lame-duck' Commission.
102. This Board received numerous written comments regarding both "Parts" of MLA 04-28 up to the deadline for comments, which was December 8, 2004. Most of these written comments were opposed to adoption of any part of MLA 04-28.
103. On December 13, 2004 this Board deliberated during a public meeting on the merits of both "Parts" of MLA 04-28.
104. Regarding the BAS portion of Part A, this Board concluded that the so-called established BAS is missing (for marine shorelines), in draft form (wetlands), or illogical in what it clumps together as needing the same protections (WDFW recommendations on stream buffers are precisely the same for both salmon-bearing and non-salmon bearing streams). These concerns of this Board are laid out in more detail in Findings #8 through #68, inclusive.
105. For all of the reasons laid out in Findings #8 through #68, inclusive, and Finding #104, this Board finds itself unable to discern what is BAS and finds itself being forced to act ahead of state agencies such as Ecology.
106. In light of that uncertainty, this Board chooses to readopt the current critical areas regulations found in the UDC at Section 3 and finds those development regulations to be GMA-compliant.
107. Regarding the updating of population forecasts and capital facilities, this Board adopts the recommendations of staff and is GMA-compliant in that regard.
108. Regarding Part "B" of MLA 04-28, this Board discussed each proposed place in the CP where the Planning Commission and the DCD staff differed as to their recommended language. After the discussion of each item, this Board gave specific direction to staff as

to what final wording this Board wanted included in the CP. This discussion consumed several hours on December 13, 2004.

109. MLA 04-28, Part A, the 7-year update, is required by state law and thus its appropriateness or timeliness need not be measured by or validated by comparing Part A to the Growth Management Indicators (or "GMI") found in the UDC at §9.5.4 and §9.8.1.
110. However MLA 04-28 Part A does have relevance to UDC §9.5.4(b)(1) and (4) because the new population forecasts and allocations indicate that population growth will occur at a lesser rate between now and 2024 than was anticipated when the CP was adopted in 1998.
111. However MLA 04-28 Part A does connect with UDC §9.5.4(b)(6) and (7) because circumstances have changed (BAS and population forecasts have changed) and because the CP would not comply with GMA unless the newest BAS would be included.
112. Additionally, the same changes in circumstances listed immediately above indicate that UDC §9.8.1(b)(1) and (2) would make MLA 04-28 Part A meritorious assuming it was not mandated by state law, since those two GMI speak of changed circumstances.
113. While most of the GMI listed at UDC §9.5.4(b) are not relevant to MLA 04-28 Part B (the PC assessment every five years), UDC §9.5.4(b)(6) and (7), which speak of changed circumstance and inconsistencies with GMA, respectively, do apply.
114. Section (b)(6) applies because much of what was deleted from the CP by MLA 04-28 Part B was made obsolete when the County accomplished actions that the CP text had stated would occur *in the future* and that amounts to a change in circumstances.
115. Section (b)(6) applies because to the extent that MLA 04-28 Part B removed from the CP regulatory language that is currently found in the later-enacted UDC, where it most logically belongs, the removal of such regulatory language amounts to a change in circumstances.
116. Sections (b)(6) and (b)(7) apply to MLA 04-28 Part B to the extent that the 5-year assessment removed from the CP text that is not compliant with the GMA or in contradiction to decisions of our regional Hearings Board and ADDED language that

allows this County to implement through its CP and UDC new GMA tools such as Industrial Land Banks.

117. All of the above that has been stated about MLA 04-28 Part B in reference to the GMI found in the UDC at UDC §9.5.4(b)(6) and (7) would be equally true with respect to the GMI codified at UDC §9.8.1(b)(1).
118. The amendment process for the Comprehensive Plan must be available to the citizens of this County [including corporations and other business entities] on a regular basis. In accordance with RCW 36.70A.130, CP amendments can generally be considered “no more frequently than once per year.”
119. These amendments further the goals and policies set forth in the GMA, the County-Wide Planning Policies, the County’s CP, and were reviewed in accordance with the Growth Management Indicators in UDC 9.5.4 and 9.8.1.
120. All procedural and substantive requirements of the GMA have been satisfied.
121. This Board adopts the Findings of Fact submitted to it by the Planning Commission as if stated in full herein.
122. Adoption of these amendments will serve to benefit the health, welfare and lifestyle of the residents of Jefferson County.
123. Enactment of this Ordinance represents and memorializes this County’s compliance with RCW 36.70A.130(4) for duties and responsibilities specific to the year 2004.

NOW, THEREFORE, BE IT ORDAINED, by the Jefferson County Board of Commissioners as follows:

Section 1 Comprehensive Plan Amendments under MLA04-28

Under MLA04-28, Parts A and B, the following Comprehensive Plan elements are hereby amended and replaced as presented in the Attachment to this Ordinance.

- 1) Chapter 01: Introduction/Plan Implementation and Monitoring
- 2) Chapter 03: Land Use and Rural
- 3) Chapter 05: Housing
- 4) Chapter 06: Open Space, Parks and Recreation and Historic Preservation
- 5) Chapter 07: Economic Development
- 6) Chapter 08: Environment
- 7) Chapter 09: Essential Public Facilities
- 8) Chapter 10: Transportation
- 9) Chapter 11: Utilities
- 10) Chapter 12: Capital Facilities

Section 2 Re-adoption of certain UDC provisions for MLA 04-28, Part A

Unified Development Code (UDC) Section 3, as presently constituted, is hereby readopted.

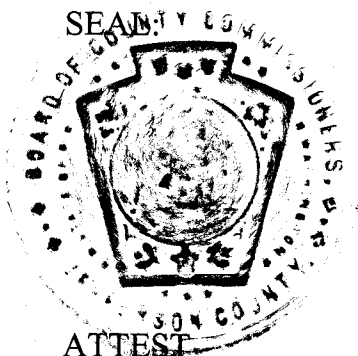
Section 3 Severability

If any section, subsection, sentence, clause, phrase or section of this Ordinance or its application to any person or circumstances is held invalid, the remainder of this Ordinance or its application to other persons or circumstances shall be fully valid and shall not be affected.

Section 4 Effective Date

This Ordinance becomes effective upon adoption by the Board of County Commissioners.

Approved and adopted this 13th day of December 2004.



Julie Matthes, CMC
Julie Matthes, CMC
Deputy Clerk of the Board

JEFFERSON COUNTY
BOARD OF COMMISSIONERS

Glen Huntington
Glen Huntington, Chair

Dan Titterness
Dan Titterness, Member

Patrick M. Rodgers
Patrick M. Rodgers, Member

Approved as to form only:

David W. Alvarado 12/13/02
Jefferson Co. Prosecutor's Office