

## ‘Mirrored Maps’ Policy Discussion

### The Relationship of the Future Land Use Map and the Zoning Map

#### Introduction

Until 1994 the land use maps in Olympia’s Comprehensive Plans included designations that were more general in character and location than the regulatory zoning map. For instance, the 1988 Plan included only 14 land use categories, some of which, such as schools and parks, recognized particular uses and were not related to zoning. In response to the Growth Management Act, the City’s Future Land Use Map was amended to reflect the zoning map with a one-to-one parcel-specific relationship between the thirty-three ‘future land uses’ and the thirty-three regulatory zoning districts of the City. The latter technique is sometimes referred to as ‘mirrored map’ planning and zoning. Although each of the ‘land use designations of Olympia’s Future Land Use Map is described by a paragraph in the Land Use chapter beginning at page 72 of the Plan, the Plan includes little guidance regarding the reasons for moving to this degree of specificity.

#### Source of Topic

As a result of this mirrored-map approach, any proposal to change the zoning map must be accompanied by a proposal to amend the Comprehensive Plan. The staff has found that this approach restricts the ability of the City to respond to changing circumstances. During a recent regulatory program review by the City Manager’s office, during Imagine Olympia scoping, and at high density corridor and neighborhood focus meetings, various parties commented that inflexibility of the zoning prevented developers from implementing the broader goals and policies of the Plan.

#### Regulatory Framework

The Growth Management Act requires that the Comprehensive Plans of cities subject to the Act, such as Olympia, include, “a land use element designating the proposed general distribution and general location and extent of the use of land ....” Such designations apparently must be in the form of a map, as the Act says, “The plan shall be an internally consistent document and all elements shall be consistent with the future land use map.” RCW 36.70A.070. The State advises that, “Counties and cities should prepare a future land use map including land use designations, municipal and urban growth area boundaries, and any other relevant features consistent with other elements of the comprehensive plan.” WAC 365-196-405(2)(i)(ii). Development regulations, such as zoning, must be “consistent” with and implement the comprehensive plan. WAC 365-196-800. “‘Consistency’ means that no feature of a plan or regulation is incompatible with any other feature of a plan or regulation. Consistency is indicative of a capacity for orderly integration or operation with other elements in a system.” WAC 365-196-210(8).

As noted, the City must perform its activities, such as zoning, “in conformity with its comprehensive plan.” RCW 36.70A.120. Sometimes referred to as a ‘consistency doctrine’ this requirement is similar to planning mandates in other states. The August 1996, *Zoning News* published by the America Planning Association identified thirty states with consistency requirements including California, Idaho, Oregon, Alaska, Nevada, and Hawaii.

Olympia’s Development Code, and Chapter 18.58 in particular, provides that a privately-initiated rezone, i.e., zoning map amendment, that does not require a Comprehensive Plan amendment shall be reviewed by the Olympia Hearing Examiner who is to hold a public hearing and make a recommendation to the City Council. But any rezone that requires a Plan amendment is to be heard by the Planning Commission with its recommendation being forwarded to the Council. The related Plan amendments can only be considered once each year. RCW 36.70A.130. As a result of Olympia’s ‘mirror map’ approach, all rezones now follow the latter process.

**Existing Conditions and/or Implementation**

The requirement that zoning be done 'in accordance' with a comprehensive plan dates at least from the 1922 Standard Zoning Enabling Act promulgated by the U. S. Department of Commerce. Although some states require 'strict' conformity of zoning with the comprehensive plan, Washington Courts have thus far continued to describe the plan as a 'guide' or 'foundation' for zoning. The courts of many other states have also addressed the topic. California rulings have emphasized the need to look at the entirety of the plan, and not to give priority to one section, such as the land use map or element.

In some cases the policies of the plan have been found to 'trump' the Plan's land use map. Idaho and other courts have concluded that a Plan map designation does not require a city to grant a rezone - because the Comprehensive Plan is a policy-driven long-range planning document decision-makers may consider whether a proposed zone is appropriate to a given location and whether adequacy of facilities and other circumstances favor granting the change now or awaiting a more appropriate time for a change in zoning. Washington courts have confirmed that a Future Land Use Map may provide for a range of zoning choices with specific rezones being compared to the policies of the Plan. See, for example, the court's decision in *City of Bellevue v. East Bellevue Community Council*, 138 Wn. 2d 937, 983 P.2d 602 (1999). On the other hand, Florida courts have been inclined toward a 'strict' consistency requirement leading toward zoning maps that mirror the Plan map. City staff is inventorying the approach of Olympia's "peer" Washington cities regarding this issue.

Since 1994, the City of Olympia has received about one privately-initiated combined rezone and future land use map amendment proposal per year. The criteria for considering a rezone request are set forth at Olympia Municipal Code (OMC) 18.59.050. In general they require consistency with the Comprehensive Plan, maintenance of the public health, safety or welfare, and not being materially detrimental to use of property in the vicinity. A rezone is only warranted if necessary for consistency with the Plan, because more land is needed in a specific classification, or because the proposed classification is appropriate for reasonable development of the property.

**Options & Analysis**

In general, this policy question presents two broad options. One, retain the status quo: All zoning map amendments would continue to be processed concurrently with a comparable Future Land Use Map amendment of the Comprehensive Plan. Or, two, replace the existing Future Land Use Map with a map with fewer categories of use and, possibly, less distinct boundaries. The comparison below addresses some of the implications of the two options - in no particular order.

	<b>Option 1: No Action</b>	<b>Option 2: Less Specific Land Use Map</b>
<b>Public Hearing Role</b>	The Planning Commission would continue to hear and make recommendation to the Council regarding all rezones.	The Hearing Examiner would hold a public hearing and make recommendation to the Council regarding any rezone that arguably was consistent with the Plan. (Note that the Code could be amended to authorize the Commission to hear all rezone proposals.)
<b>Predictability</b>	Because the Plan can only be amended once each year, the zoning map is equally stable.	Changes in zoning would probably be more common.
<b>'Floating' Zones</b>	The current Plan includes eight "neighborhood centers," for which the specific parcels are to be determined by rezone actions.	A less specific Future Land Use Map would be more flexible and could include more designations where the specific location would be decided by the rezone process.

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<b>Growth Reserves</b>	The 'mirror map' approach results in relatively rural areas being 'pre-zoned' for urban uses even if lacking utilities and other urban services.	A less specific Plan Map could designate future land uses but reserving urban zoning until adequate facilities and services are available. (Note that 'growth reserves' is an upcoming policy topic.)
<b>Assessed Values &amp; Taxes</b>	Because parcel zoning is a factor considered by the assessor in determining taxable value, the 'mirror map' approach may result in overvaluing some properties.	If consistent with the Comprehensive Plan, properties could be zoned based on currently viable development patterns, and rezoned as conditions change.
<b>Land Use Designation Boundary Adjustments</b>	Changing the zoning of even a single lot - even if clearly correcting an error -- requires a Plan amendment.	Minor zoning map boundary amendments could be approved without a Plan amendment. The Plan or Zoning Code could limit the scale of such adjustments.
<b>Plan Policies v. Plan Map</b>	Since zoning map amendments are concurrent with a Plan Map amendment, all map amendments are judged based on consistency with other elements of the plan.	Rezoning independent of Plan amendments would be judged based on consistency with the Future Land Use Map and other elements of the Comprehensive Plan, i.e., the Future Land Use Map would become a meaningful document.
<b>Rezone Criteria</b>	As summarized above, the City's rezone criteria focus on consistency with the Plan, the need for more land for a given use, or to allow use of a parcel.	If 'mirrored maps' were not used, more specific guidance could be added to the criteria in the Plan or zoning code regarding the distinctions between siting of the various zones.
<b>Real Estate Markets &amp; Opportunities</b>	Because Plan amendments can only be processed once each year, rezone proposals can take up to two years, thus limiting the ability for property owners to respond to changing real estate markets.	If consistent with the Plan, developers would have the option of proposing zoning changes responsive to new opportunities. For example, apartment developers might seek a shift to another multi-family zone with a different density.
<b>Flexibility</b>	Because all rezones are part of the lengthy Plan amendment process, the zoning map is generally a 'fixed' standard for development.	Zoning could be adjusted to address specific circumstances and new information. Rezoning could be considered more quickly providing developers with the option of proposing alternative means of implementing the City's vision as set forth in the Plan.
<b>"Spot Zoning"</b>	Since one test of inappropriate spot zoning is inconsistency with the Plan, the concurrent amendment process negates this risk.	Traditional 'illegal spot zoning' tests would be considered whenever a rezone proposal was reviewed.

Values and Vision (2011)

The draft Values and Visions Statements do not directly address this policy question. However, the following three are relevant to the issue of flexibility of the City's development regulation process:

- ❖ The city accommodates its share of Thurston County's growth.
- ❖ The design of new buildings adds to the comfort, visual interest, and function of the urban environment.
- ❖ Community members, developers, and the city work together to ensure development of differing scales, intensities and densities is compatible with the existing neighborhood.

Preferred Option

Although a specific proposal has not been formulated, preliminary staff discussion has focused on a return to fewer Future Land Use Map designations approximating the dozen or so in the 1988 Plan. For instance, the two multi-family designations could be collapsed into a single category, and the three 'sensitive area' residential categories might become a single category. A chart could be added indicating which zones are consistent with which of the land use designations of the Plan. (Clark County has adopted such a chart.) To allow for small boundary adjustments a statement would be added regarding the specificity level of the designation boundaries. For instance, zoning boundaries might be required to fall within 100 feet of the Future Land Use Map boundaries. More 'floating zone' options could be added, such as provisions for placement of the 'manufactured housing park' category where appropriate to protect affordable housing. The staff would particularly welcome discussion of whether resulting 'Plan-consistent' rezone hearings should be held by the Commission or Hearing Examiner.

List of Resources

Washington Department of Commerce. (1993). *Preparing the heart of your comprehensive plan: A land use element guide*.

American Planning Association. (August 1996). *Zoning and the Comprehensive Plan*.

Lucero, Lora A., Zoning Practice (November 2005). *The consistency doctrine: Merging intentions with action*. American Planning Association.

Ohm, Brian W., Zoning Practice (August 2008). *Practice consistency - Let the courts guide you: Planning and zoning consistency*. American Planning Association.