

David Goldsmith

From: Bob Meinig [bmeinig@mrsc.org]
Sent: Wednesday, January 29, 2003 11:40 AM
To: David Goldsmith
Subject: RE: Research Request

David:

This is not a question we have addressed before. However, the statutory language appears clear that a master planned resort (MPR) designation under either RCW 36.70A.360 or RCW 36.70A.362 is not considered the same as a designation as an urban growth area (UGA). (You mention RCW 36.70A.360, but wasn't Port Ludlow considered an "existing resort" under RCW 36.70A.362? Not that it makes any practical or legal difference with respect to this question.) RCW 36.70A.360(1) provides in relevant part: "Counties that are required or choose to plan under RCW 36.70A.040 may permit master planned resorts which may constitute urban growth outside of urban growth areas as limited by this section." (There is almost identical language in RCW 36.70A.362.) Since, under this statutory language, an MPR constitutes "urban growth outside of urban growth areas," it follows that an MPR is not considered equivalent to a UGA.

This conclusion is reinforced by restrictions on MPRs in RCW 36.70A.360(3)(b), which requires that the "comprehensive plan and development regulations include restrictions that preclude new urban or suburban land uses in the vicinity of the master planned resort, except in areas otherwise designated for urban growth under RCW 36.70A.110." As noted by the Eastern Washington Growth Management Hearings Board in *City of Ellensburg v. Kittitas County* (No. 96-1-0017, Order on Compliance and Invalidity, April 16, 1998): "The MPRs were to be self-contained and not be the catalyst for further urban sprawl." If an MPR designation were equivalent to a UGA designation and the area of the MPR could thus incorporate as a city, the new city would likely not continue to be subject to the growth restrictions applicable to an MPR under RCW 36.70A.360 or 36.70A.362.

Also, note that a county is authorized under RCW 36.70A.110(1) to designate a UGA outside of and not including a city: "An urban growth area may include territory that is located outside of a city only if such territory already is characterized by urban growth whether or not the urban growth area includes a city." Presumably the county designated Port Ludlow as an MPR rather than as a UGA for reasons that included not wanting Port Ludlow to incorporate as a city.

In summary, it is my firm opinion that an MPR is not equivalent to designation as an urban growth area, and thus the area of an MPR cannot incorporate as a city.

I hope that the above opinion is of assistance.

Bob Meinig
MRSC Legal Consultant

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

From: dgoldsmith@co.jefferson.wa.us
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Subject: Research Request

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Research Request:

Is the Master Planned Resort designation, pursuant to RCW 36.70A.360 considered the same as a UGA for the purpose of incorporation. We have a MPR, Port Ludlow, which is inquiring about an incorporation vote. The questions becomes can they under the terms of GMA?