

**PLANNING COMMISSION
 COMMISSIONER’S HEARING ROOM, COUPEVILLE, WA
 TUESDAY MARCH 8, 2011**

	<i>Members Present</i>	<i>Members Absent</i>
<i>District 1</i>	<i>Val Hillers</i>	
	<i>Dean Enell - Chair</i>	
	<i>Mike Joselyn</i>	
<i>District 2</i>	<i>Mitchell Howard</i>	
	<i>Anna-Marie Sibon</i>	
		<i>Mahmoud Abdel-Monem</i>
<i>District 3</i>	<i>Wayne Havens</i>	
		<i>William Lippens</i>
	<i>Scott Yonkman</i>	

Meeting called to order at 9:05 a.m. by Chair Enell

ROLL CALL

Wayne Havens, Scott Yonkman, Mitchell Howard, Dean Enell, Anna-Marie Sibon, Val Hillers, Mike Joselyn

Staff Present: Robert Pederson – Planning Director, Anthony Boscolo – Long Range Planner, Troy Davis – Long Range Planner

ITEMS FROM THE PUBLIC

None

APPROVAL OF THE MINUTES - February 3, 2011

Commissioner Joselyn moved to accept the minutes as presented, Commissioner Yonkman seconded, motion carried unanimously.

DIRECTOR’S UPDATE

Director Robert Pederson, advised the Planner hired to coordinate the Shoreline Master Program update, Karen Stewart, would provide a detailed briefing of the process at the Planning Commission’s March 22nd meeting. Mr. Pederson provided a handout to the Commission from the Planning Department website of the three upcoming SMP Community Visioning meetings:

- South Whidbey Shoreline Community Visioning – Clinton Community Hall, 6411 Central Ave., Tuesday, March 15th from 5:00 – 7:00 p.m.
- North Whidbey Shoreline Community Visioning: – Coupeville Recreation Center, 901 NW Alexander St., Monday, March 29th from 5:00 – 7:00 p.m.

- Camano Island Shoreline Community Visioning: – Camano Community Center, 606 Arrowhead Rd. Tuesday, March 29th – 5:00 – 7:00 p.m.

Additionally he advised the Commission that one of the items on their Annual Review Docket for 2011 is to begin some of the precursor discussions to the next periodic update of the Comprehensive Plan. One of those fundamental items is a review of County Wide Planning Policies (CWPP). The Department is undertaking that effort this year and the discussion would also be on the next Planning Commission agenda, March 22nd for a workshop discussion with the Planning Commission on where changes and updates may need to be made to these policies. The current policies were adopted in 1998.

Ultimately any product that results will come back in a formal sense as part of the overall Comprehensive Plan to the Planning Commission for public meetings and hearings.

Mr. Pederson next advised the Commission that following the Annual Joint Meeting of the Planning Commission, the Board of County Commissioners, the Island County Hearing Examiner and staff, the Board did adopt the work program for 2011. It includes the Annual Review Docket items, some other ongoing work the Long Range Planners are engaged in, and a number of other items, such as Code clean ups. Part of that work program results in items on today's Planning Commission's agenda.

NEW BUSINESS –

DRA 016/11 – An amendment to the Island County Code, amending Chapters 16.19 and 11.02, to clarify the appeal process for Clearing and Grading Permits.

Long Range Planner, Troy Davis provided a briefing on the issue. He stated that an appeal came forward which identified the fact that the Code language was not clear on who could appeal and who should hear the appeal. In Section 11.02.250.A it says anyone can appeal a Type I permit, which a Clearing and Grading Permit is. It also states that appeal is heard by the Hearing Examiner.

11.02.250 Appeals

A. Any aggrieved person may appeal any final decision or determination of the Director under this chapter to the Hearing Examiner as a Type II appeal, except that the appeal of decisions and determinations of the Director that are included as a condition of another permit, pursuant to the exemption provisions of this chapter, do not change the appeal procedures established for issued permit. Appeals shall be filed and processed pursuant to the provisions of ICC 16.19.

Section 16.19.190.A.2 states that an applicant can appeal a Clearing and Grading Permit and that appeal would be heard by the Board of County Commissioners; this Code amendment is meant to clarify the issue.

16.19.190 Administrative Appeals

Type I Decisions

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2. An Applicant may appeal a denial of a Type I application or a Type I capacity determination issued under Chapter 11.04 ICC to the Board of Island County Commissioners. A written statement of appeal, accompanied by a fee must be filed with the Clerk of the Board by the applicant, within fourteen (14) days following the mailing of the Director's decision. A more comprehensive statement setting forth in detail alleged errors and/or the basis for appeal must be submitted by the appealing person or department within thirty (30) days following mailing of the Director's decision, or the appeal is not properly filed and will be dismissed without hearing. The appeal shall be an Open Record Appeal Hearing and the written decision of the Board, in the format provided under ICC 16.19.180, shall be rendered within fourteen (14) days of the conclusion of the hearing, unless a longer period is agreed to in writing by the applicant.

The Code Amendment will clarify that a Type I permit decision is appealable only by the applicant and that the Hearing Examiner is the responsible official to hear the appeal; staff recommends the Planning Commission recommend approval of this amendment to the Board of County Commissioners.

Commissioner Enell asked why 16.19 wasn't amended to allow anyone to appeal a Type I Permit and establish consistency in that manner.

Director Pederson responded that 16.19, the structure of permit types and appeal types and where they go clearly sets forth that all Type I decisions are appealable only by an applicant. A Type I permit is a ministerial decision, if it meets the prescribed standards of Code, they are entitled to their permit and the permit is issued. There is no subjective decision making either contemplated or allowed. That is consistent in jurisdiction all across the State.

As a policy matter, which the Board reaffirmed, it is not desirable to allow anyone in the world to appeal someone else's ministerial permit decision. The unintended consequences of opening that appeal process to anyone, particular when neighbors don't get along are involved, there could be spite issues involved etc. It is different when there is a subjective decision, such as what may be the appropriate setback. That is fair debate, fair discussion, allowing public input.

Type I does not involve SEPA; it is the lowest level decision made on a daily basis. If an applicant is aggrieved by a Planning, Building, or Public Works decision then they should and are afforded the opportunity to appeal.

Chapter 11.02 spoke specifically about Clearing and Grading appeals and was adopted at a later date. This Chapter correctly identified the appeal should be heard by the Hearing

Examiner, which was the intent of the County when it switched over to the Hearing Examiner system. The problem in 11.02 is that it did not connect back to 16.19 identifying the applicant as the only aggrieved person afforded appeal rights of Type I decisions.

Commissioner Yonkman stated he was in favor of approving this amendment. If an applicant has done all that they can do to get a permit in order and they meet all of the requirements, it should flow through the process and not be subjected to further expense and effort. With the Hearing Examiner being the one who hears appeals, they are typically in tune with the appropriate Codes and Regulations, which makes for a cleaner process if an appeal does need to take place. It takes the politics and emotion out of it, looking directly at the issues at hand.

Chair Enell opened the hearing to the public for comment. Hearing none he closed the public portion of the hearing.

Commissioner Sibon moved to approve recommending approval as presented of Development Regulation Amendment DRA 016/11 to the Board of Island County Commissioners, Commissioner Howard seconded, motion carried unanimously.

DRA 019/11 – An amendment to the Island County Code, amending Section 16.190.100, to simplify permit review timeframes

Long Range Planner Troy Davis provided a briefing on the issue. There are currently five separate processing timeframes in County Code. It is complicated further by the fact that some of those permits review timeframes are based on where the project is physically located. The State has a much simpler timeframe for permit processing. This amendment will streamline the process and County Code to be more in line with what is in RCW 36.70B.

Mr. Davis further stated that the current County Code is more complicated than it needs to be. This amendment proposes to simplify the permit review process times to be in line with the State. The Department understands the necessity of processing permits as quickly as possible. The intent is not to drag things out to the full 120 days; it is in the best interest of the County and customer service to get these permits out as quickly as possible, but the 120 days will align with the State and simplify the process in terms of what can be expected from the applicants.

Director Pederson commented on the ordinance prepared to incorporate these changes. It was discovered that there was another section of Code in 17.03 that references these timeframes, which also needs to be included in this ordinance and therefore it will be necessary to continue this hearing to the next meeting. A revised staff report was handed out today reflecting the other Code section incorporated into the ordinance.

Director Pederson further reiterated Mr. Davis' comment that this was not in any way meant to slow down the permit processing.

Chair Enell opened up the hearing to the public, hearing none he asked for comment from the Commission.

Commissioner Hillers stated it made sense to simplify the process and make the Code more uniform.

Chair Enell suggested the building community be advised of this issue as he feels it is a sensitive issue.

Director Pederson explained he had met with a builders group on South Whidbey and the Department is constantly in communication with SICBA on these types of issues. Permit processing timeframes have been reduced in the Department. In December a large number of permits came in to beat the change in the Energy Code, which took effect January 1st. These permits were planned checked and in many cases ready to be picked up and in one instance the builder wasn't ready to pick up eight applications because the Department beat their expectations; they had thought it would take several months to process the permits. By in large, unless there are critical areas issues that requires a different set of staff to review, a straight forward building permit is getting through in six weeks or less.

Commissioner Yonkman stated the Planning Department has worked hard to move permits through despite the reduced staffing levels. Understanding human nature having 120 days to complete a simple permit may cause it to take longer, he asked if there wasn't a way without complicating things further to have some sort of a comment included that would cause extra attention for simple permits. He felt concerned about the momentum of the building industry as one of the major economic engines and financing. Helping projects move forward is important to our communities and our State. Things do need to develop as long as they develop properly.

Mr. Pederson stated he would look to see if language could be added to express that intent. The Department tried to capture that in the ordinance, but it would be looked at to see if it could be added into the actual text of the Code. It is not uncommon that in a Chapter or Subchapter Section of the Code that there will be a purpose and intent language as the introductory part to that section.

Commissioner Hillers moved to continue DRA 019/11 to the March 22nd meeting, Commissioner Joselyn seconded, motion carried unanimously.

DRA 021/11 – An amendment to the Island County Code, amending Section 16.08.060, to eliminate a conflicting duty between the Planning Commission and the Hearing Examiner.

Planner Troy Davis provided briefing on this issue. Explaining the purpose is to eliminate a conflicting duty between the Planning Commission and the Hearing Examiner. The Code as currently written assigns the Planning Commission with the responsibility of reviewing Preliminary Subdivision Plats of five or more lots and grant approval of those Plats. The current ordinance was established back in the 60's and was never amended to reflect the change once that responsibility was given to the Hearing Examiner. At the moment it is both the Planning Commission's responsibility and the Hearing Examiner's responsibility. This amendment will correct what should have been corrected a long time ago by removing the responsibility from the Planning Commission for reviewing Preliminary Subdivision Plats of five lots or more and have it remain solely as the responsibility of the Island County Hearing Examiner.

Commissioner Sibon asked if the Planning Commission had heard one of these since the change was made or was the Hearing Examiner the only one.

Director Pederson confirmed that since the implementation of the Hearing Examiner system in Island County approximately 22 years ago, the Planning Commission has had no quasi judicial decision making role.

Chair Enell opened the hearing for public comment, hearing none he closed the public comment portion of the hearing.

Commissioner Havens asked about the process for less than 5 lots.

Mr. Pederson replied that under State law a Short Plat of 4 lots or less is an Administrative Decision made by staff.

Commissioner Yonkman moved to approve DRA 021/11 as proposed by staff, Commissioner Joselyn seconded, motion carried unanimously.

DRA 042/11 – An amendment to the Island County Code, amending Chapters 15.02, 16.13, and 16.19 pertaining to appeals to Island County Hearing Examiner of changes related to storm and surface water utility, Marshall Drainage Basin, and Clean Water Utility.

Director Pederson provided a briefing on this issue. The Board of County Commissioners adopted a Clean Water Utility. As part of the implementation of that Clean Water Utility an appeal over the system of charges set by the Board would be heard by the Island County Hearing Examiner. That system mirrors the language in the old Code for Marshall Drainage Basin, where appeals under that limited drainage basin utility went to the Hearing Examiner.

This is part of the many implementation pieces of the Clean Water Utility. This Code amendment clearly sets forth in those Code Sections that this appeal is one of the duties of the Hearing Examiner. The fee for that appeal is something that would be set by

resolution by the Board of County Commissioners and would be done when other implementation pieces of the Clean Water Utility go forward to the Board for action.

This addresses the Land Use component of what happens if someone is aggrieved; their appeal would be heard by the Island County Hearing Examiner.

Recess

Chair Enell reconvened and opened the hearing to comments from the public, hearing none he closed the public comment portion.

Commissioner Sibon asked if the fees were set by a separate ordinance.

Director Pederson stated the fees are set by resolution and are not codified in Code.

Commissioner Yonkman asked for confirmation that this was all about the appeal process.

Mr. Pederson responded that the County had created a new Clean Water Utility District that has fees associated with it; as with any other type of program there needs to be some measure of administrative relief for an applicant that feels aggrieved by that decision. This amendment establishes that an appeal is the duty of the Hearing Examiner.

Commissioner Hillers moved to recommend approval of DRA 042/11 as presented, Commissioner Yonkman seconded, motion carried unanimously.

Dean Enell provided a PowerPoint presentation on Down Stream costs of growth; a study by Eben Fodor from Eugene Oregon.

Relationship between Growth and Prosperity in
100 Largest U.S. Metropolitan Areas
By Eben Fodor
December 2010

The Study: Relationship between Growth and Prosperity in
100 Largest U.S. Metropolitan Areas
By Eben Fodor
December 2010

What was Looked at:: This study looked at the population growth* in 100 metro areas between 2000 and 2009 and then compared the highest 25 with the lowest 25 in terms of:

- per-capita income
- unemployment rate
- and poverty rate.

The findings:: **11 findings summarized in 9 charts and 1 table**

* data from Us Census Bureau

A 95% level of confidence in an outcome is the standard research benchmark, and is used here (p < 0.05). Some of the correlations in this study have a confidence level of 99% or higher

Does Growth = Prosperity?

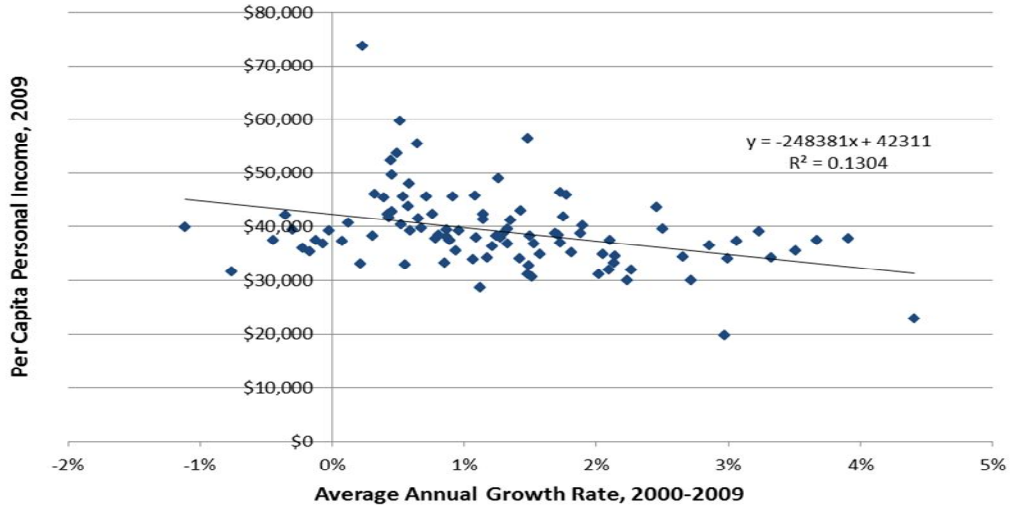
Conventional wisdom says yes -

We have to grow to provide jobs
We have to grow or die

But...

does the empirical evidence show that growth is actually providing these benefits?

2009 Per Capita Personal Income Compared with 2000-2009 Growth Rate for 100 Largest U.S. MSAs



Source: Fodor & Associates LLC (from U.S. Census and Bureau of Economic Analysis data).

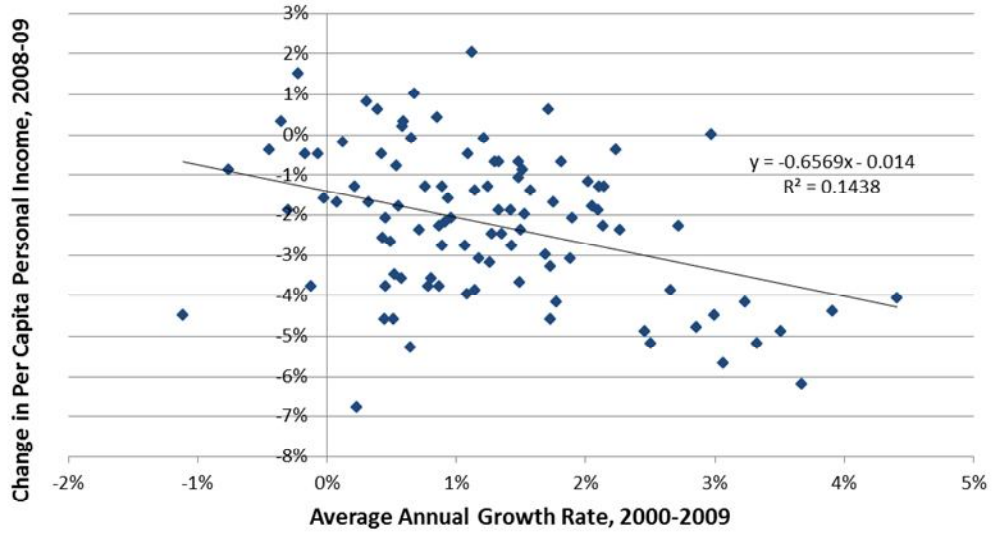
The slope of the trendline shows a decline of almost \$2,500 in per capita income for each 1% increase in growth rate

* The income data from the U.S. Bureau of Economic Analysis

Fig. 1.

Finding #1: Incomes tend to be higher in metro areas with lower growth rates.

Change in Per Capita Personal Income 2008-09 Compared with 2000-2009 Growth Rate for 100 Largest U.S. MSAs

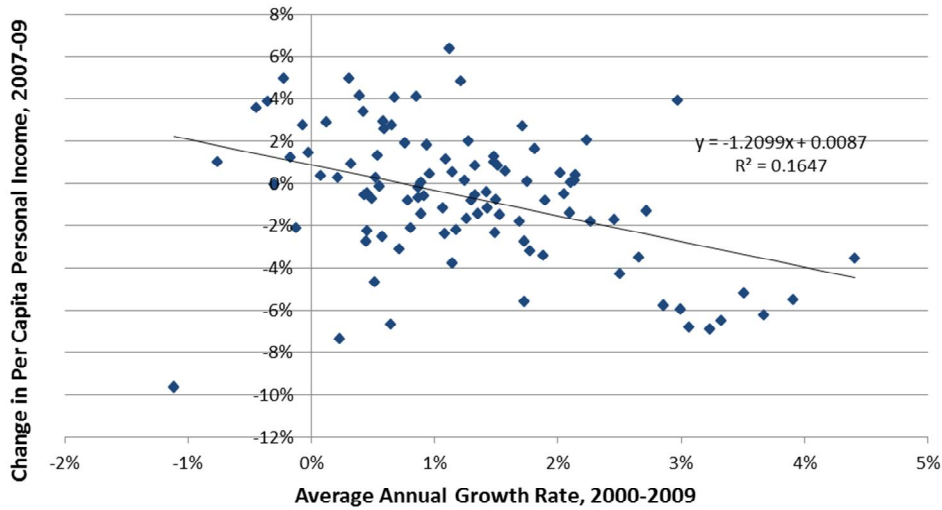


Source: Fodor & Associates LLC (from U.S. Census and Bureau of Economic Analysis data).

Fig.2

Finding #2: Faster-growing metro areas tended to have a bigger drop in income last year (2009).

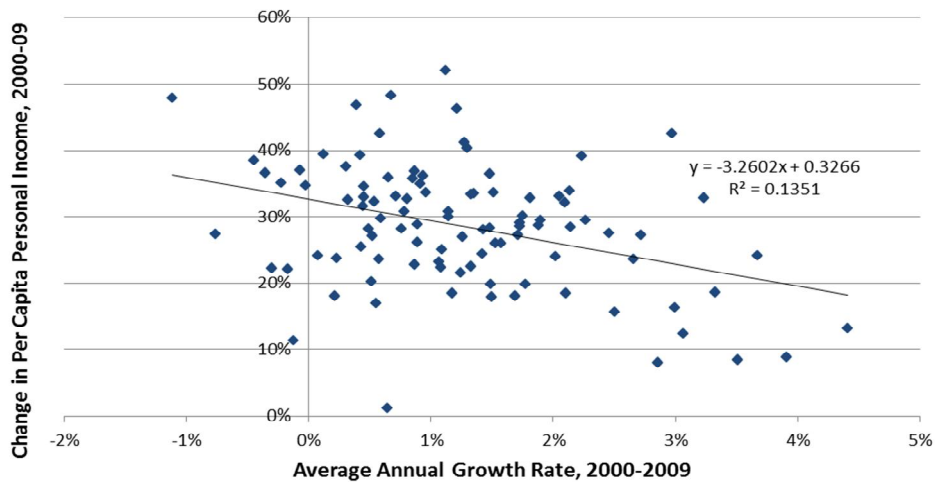
Change in Per Capita Personal Income 2007-09 Compared with 2000-2009 Growth Rate for 100 Largest U.S. MSAs



Source: Fodor & Associates LLC (from U.S. Census and Bureau of Economic Analysis data).

Fig. 3

Change in Per Capita Personal Income 2000-09 Compared with 2000-2009 Growth Rate for 100 Largest U.S. MSAs



Source: Fodor & Associates LLC (from U.S. Census and Bureau of Economic Analysis data).

Fig. 4

Finding #3: Metro areas that grew faster from 2000 to 2009 tended to have greater declines in personal income during the Great Recession (2007-09)

Finding #4: Metro areas with slower growth had bigger income gains over the 2000-2009 period.

Finding #5: Per capita personal income in faster-growing metro areas was more severely impacted by the recession.

Finding #6: Higher growth rates occurring 10 or more years in the past have a stronger correlation to lower incomes in 2009 than do more-recent periods, indicating that there may be long-term adverse consequences to local residents from faster growth.

All of these correlations were significant at the 99.9% confidence level.

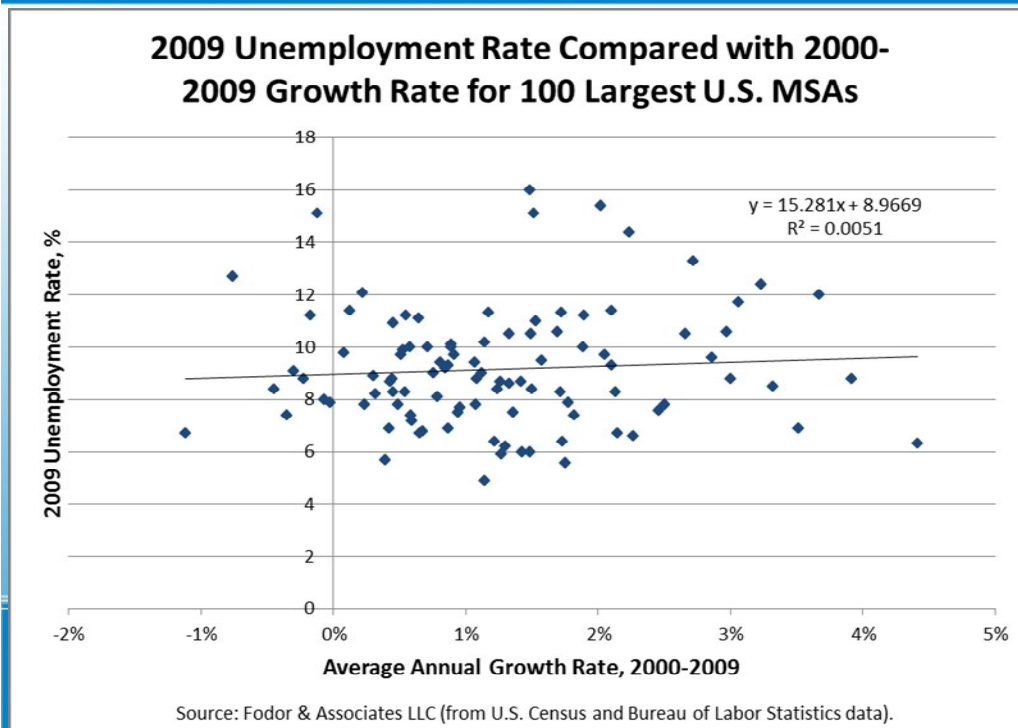
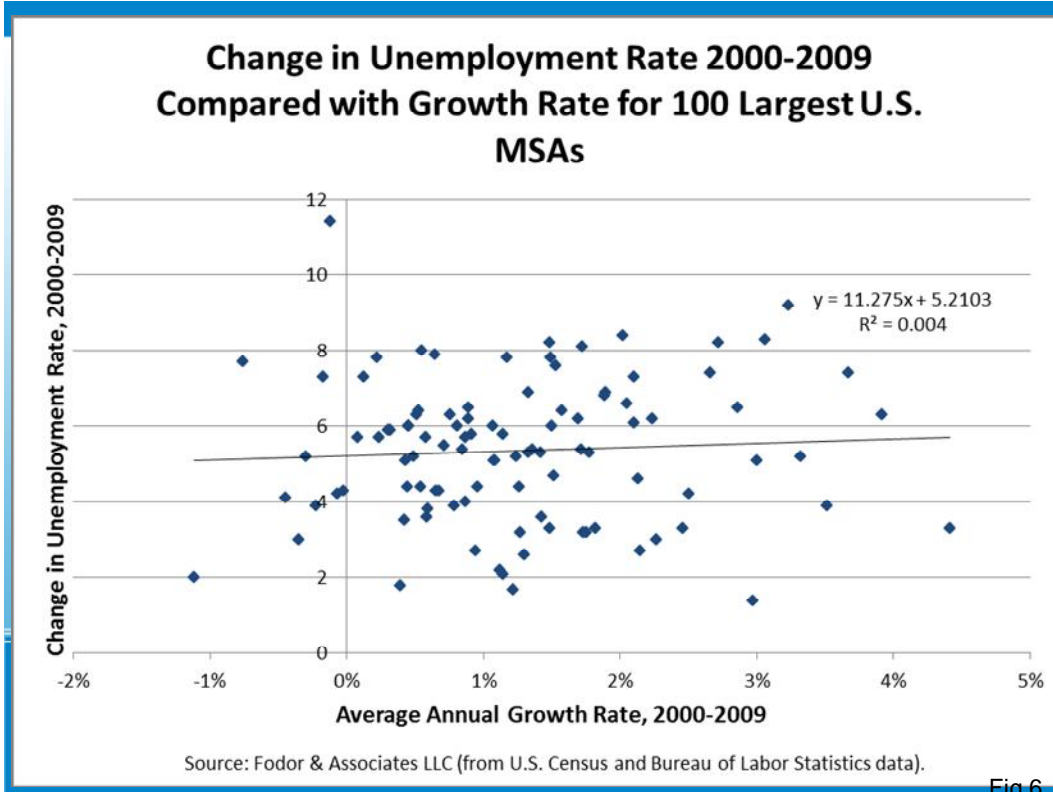


Fig. 5

Finding #7: Metro areas with faster growth rates do not tend to have lower unemployment rates.



Finding #8: Metro areas with faster growth rates do not tend to see their employment conditions improve more than slower growing areas.

Table 1 Comparison of 25 Fastest- and 25 Slowest-Growing MSAs of 100 Largest for the 2000-2009 Period				
Averages for Each Group	All 100 MSAs	25 Slowest Growing	25 Fastest Growing	Difference (slowest-fastest)
Ave. Ann. Pop. Growth Rate 2000-2009	1.3%	0.1%	2.7%	-2.6%
2009 Unemp Rate, %	9.2	9.2	9.8	-0.6
2000-2009 Change in Unemp Rate	5.4	5.4	5.7	-0.2
2009 Poverty Rate, %	13.7%	13.0%	15.5%	-2.4%
2009 Per Capita Personal Income	\$39,190	\$42,908	\$34,454	\$8,455
Per Capita Personal Income Change 2007-09	-0.7%	0.2%	-2.5%	2.7%
Per Capita Personal Income Change 2000-09	28.6%	31.0%	24.4%	6.6%
Source: Fodor & Associates LLC from U.S. Census data and other sources.				

Finding #11: The slowest-growing metro areas outperformed the fastest-growing areas in every category used in this study to reflect the prosperity of local residents. Residents of the slowest-growing metro areas averaged \$8,455 more per capita in personal income than those of the fastest-growing areas.

Listing of Slowest- and Fastest-Growing MSAs of 100 Largest	
25 Slowest-Growing	25 Fastest-Growing
Los Angeles-Long Beach-Santa Ana, CA	Phoenix-Mesa-Scottsdale, AZ
San Francisco-Oakland-Fremont, CA	Tucson, AZ
Bridgeport-Stamford-Norwalk, CT	Bakersfield, CA
Hartford-West Hartford-East Hartford, CT	Riverside-San Bernardino-Ontario, CA
New Haven-Milford, CT	Sacramento-Arden-Arcade-Roseville, CA
Honolulu, HI	Stockton, CA
New Orleans-Metairie-Kenner, LA	Cape Coral-Fort Myers, FL
Boston-Cambridge-Quincy, MA-NH	Jacksonville, FL
Springfield, MA	Lakeland-Winter Haven, FL
Detroit-Warren-Livonia, MI	Orlando-Kissimmee, FL
St. Louis, MO-IL	Atlanta-Sandy Springs-Marietta, GA
Albany-Schenectady-Troy, NY	Boise City-Nampa, ID
Buffalo-Niagara Falls, NY	Charlotte-Gastonia-Concord, NC-SC
New York-Northern New Jersey-Long Island, NY-NJ-PA	Raleigh-Cary, NC
Rochester, NY	Albuquerque, NM
Syracuse, NY	Las Vegas-Paradise, NV
Akron, OH	Charleston-North Charleston-Summerville, SC
Cleveland-Elyria-Mentor, OH	Nashville-Davidson-Murfreesboro-Franklin, TN
Dayton, OH	Austin-Round Rock, TX
Toledo, OH	Dallas-Fort Worth-Arlington, TX
Youngstown-Warren-Boardman, OH-PA	Houston-Sugar Land-Baytown, TX
Pittsburgh, PA	McAllen-Edinburg-Mission, TX
Scranton-Wilkes-Barre, PA	San Antonio, TX
Providence-New Bedford-Fall River, RI-MA	Ogden-Clearfield, UT
Milwaukee-Waukesha-West Allis, WI	Provo-Orem, UT

Finding #11: The slowest-growing metro areas outperformed the fastest-growing areas in every category used in this study to reflect the prosperity of local residents.

Residents of the slowest-growing metro areas averaged \$8,455 more per capita in personal income than those of the fastest-growing areas.

Fodor's Conclusions

- **Most cities in the U.S. have operated on the assumption that growth is inherently beneficial and that more and faster growth will benefit local residents economically.**
- **This examination of the 100 largest metro areas shows those that have fared the best have the lowest growth rates. Even metro areas with stable or declining populations tended to fare better than fast-growing areas.**
- **Growth clearly provides benefits to some elements of the local population (see Molotch, 1976; Logan, 1988; and Fodor, 2001). Foremost among these are the real estate, financial, and land development businesses.**
- **While certain businesses prosper from growth, the balance of the community seems to suffer.**

Does Growth = Prosperity?

The study finds that faster growth rates are associated with lower incomes, greater income declines, and higher poverty rates.

Sources

Source: 2000-2008 income data from BEA Regional Economic Accounts

Local Area Personal Income, Table CA1-3, and 2009 preliminary data released August 9, 2010
BEA Personal Income for Metropolitan Areas

Table 1, Personal Income and Per Capita Personal Income by Metropolitan Area, 2007-2009 (see: http://www.bea.gov/newsreleases/regional/mpl/mpl_newsreleases.htm) and page I-6 of Local Area Methodology, <http://www.bea.gov/regional/pdf/lapi2007/lapi2007.pdf>.

Poverty data were obtained from the *2009 American Community Survey 1-Year Estimates* for all MSAs.

Dean's Conclusions

- Adding residential capacity provides short term gains with jobs, permit fees, sales tax on materials and housing related businesses, in year one.
- The cost to the community and the government for services and related infrastructure, demanded by growth, exceeds the ongoing tax assessments in subsequent years.
- It's no secret we need jobs around here.
- This is an attractive place to live.
- We can't rely on the short term gains from residential building for long term prosperity

Concerns:

- increased traffic congestion
- environmental quality impacts
- loss of farm and forest lands
- loss of amenity values (such as tranquility, sense of community, or open space).
- higher taxes to fund the cost of the new public infrastructure (roads, schools, sewer and water systems, etc.)

Benefits:

- Economic prosperity (money in the community)
- Jobs
- a stable funding source (tax base)

Mr. Enell concluded by stating he hoped the Planning Commission could have an ongoing discussion on the topic. At the last meeting Commissioner Scott Yonkman provided some information that told a different story. He felt the Planning Commission should look at both sides of this story, further stating both sides cannot be right.

Commissioner Hillers moved to adjourn, Commissioner Howard seconded, the motion carried unanimously.

Meeting adjourned at 10:48 a.m.

Respectfully submitted,

Paula Bradshaw