

**CENTRAL PUGET SOUND  
GROWTH MANAGEMENT HEARINGS BOARD  
STATE OF WASHINGTON**

FUTUREWISE,	)	
	)	<b>Case No. 05-3-0019</b>
Petitioners,	)	
	)	<i>(Futurewise II - Auburn)</i>
v.	)	
	)	
CITY OF AUBURN,	)	<b>ORDER OF DISMISSAL</b>
	)	
Respondent.	)	
	)	
	)	
	)	

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**I. BACKGROUND**

On February 22, 2005, the Central Puget Sound Growth Management Hearings Board (the **Board**) received a Petition for Review (**PFR**) from Futurewise (**Petitioner** or **Futurewise**), with two attachments. The matter was assigned Case No. 05-3-0019, and is hereafter referred to as *Futurewise II v. Auburn*. Petitioner challenges the City of Auburn’s (**Respondent** or **Auburn**) adoption of Ordinance No. 5891, adopting an updated comprehensive plan and development regulations, as noncompliant with the Growth Management Act (**GMA or Act**).

A prehearing conference was conducted on March 24, 2005, and the Board issued its Prehearing Order on March 30, 2005, establishing the schedule for motions and briefing in this matter.

On June 13, 2005, the Board received an electronic message from Petitioner notifying the Board of an anticipated joint request for settlement extension. On June 23, 2005, the Board received the parties’ Joint Motion for Extension of Case Schedule, requesting a 90-day extension “for the purpose of pursuing settlement discussions for some or all issues raised in the petition.” On June 24, 2005, the Board issued its Order Granting Settlement Extension and Amending Case Schedule.

On September 13, 2005, the Board received Second Joint Motion for Extension of Case Schedule from Petitioner Futurewise and Respondent City of Auburn, requesting an additional 60-day extension for settlement purposes. On September 19, 2005, the Board issued an Order Granting Second Settlement Extension and Amending Case Schedule.

On November 29, 2005, the Board received Petitioners’ Stipulated Dismissal of Petition for Review, which “stipulate[s] that the petition for review ... should be dismissed with prejudice ... and that the Hearing on the Merits in this matter be stricken.”

## II. FINDINGS AND ORDER

The Board's Rules of Practice and Procedure at WAC 242-02-720 provide in part:

Any action may be dismissed by a Board:

- (1) When all parties stipulate;
- (2) Upon Motion by the petitioner or respondent prior to the presentation of the respondent's case ....

Futurewise and the City of Auburn are the only parties to this case. Prehearing briefs have not yet been submitted by either party.<sup>1</sup> The Stipulated Dismissal of Petition for Review was submitted by Petitioner Futurewise on behalf of both parties and prior to presentation of respondent's case. The stipulation requests that the scheduled Hearing on the Merits be stricken and that the case be dismissed with prejudice.

Having considered the PFR, the filings of the parties, the Board's prior Orders and the GMA, and the Board's rules, the Board **ORDERS:**

- The matter of *Futurewise v. City of Auburn*, CPSGMHB Case No. 05-3-0019 is **dismissed with prejudice**.
- All scheduled hearings are **cancelled** and this matter is **closed**.

So ORDERED this 29th day of November, 2005.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

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Bruce C. Laing, FAICP  
Board Member

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Edward G. McGuire, AICP  
Board Member

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Margaret A. Pageler  
Board Member

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<sup>1</sup> The Amended Case Schedule established November 14, 2005, as the deadline for filing Petitioners' Prehearing Brief and November 28, 2005, as the deadline for filing Respondent's prehearing brief.  
*05319 Futurewise v. City of Auburn (November 29, 2005)*

Note: This Order constitutes a final order as specified by RCW 36.70A.300 unless a party files a motion for reconsideration pursuant to WAC 242-02-832.<sup>2</sup>

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<sup>2</sup> Pursuant to RCW 36.70A.300 this is a final order of the Board.

Reconsideration. Pursuant to WAC 242-02-832, you have ten (10) days from the date of mailing of this Order to file a motion for reconsideration. The original and three copies of a motion for reconsideration, together with any argument in support thereof, should be filed with the Board by mailing, faxing or otherwise delivering the original and three copies of the motion for reconsideration directly to the Board, with a copy served on all other parties of record. Filing means actual receipt of the document at the Board office. RCW 34.05.010(6), WAC 242-02-240, WAC 242-020-330. The filing of a motion for reconsideration is not a prerequisite for filing a petition for judicial review.

Judicial Review. Any party aggrieved by a final decision of the Board may appeal the decision to superior court as provided by RCW 36.70A.300(5). Proceedings for judicial review may be instituted by filing a petition in superior court according to the procedures specified in chapter 34.05 RCW, Part V, Judicial Review and Civil Enforcement. The petition for judicial review of this Order shall be filed with the appropriate court and served on the Board, the Office of the Attorney General, and all parties within thirty days after service of the final order, as provided in RCW 34.05.542. Service on the Board may be accomplished in person or by mail, but service on the Board means actual receipt of the document at the Board office within thirty days after service of the final order. A petition for judicial review may not be served on the Board by fax or by electronic mail.

Service. This Order was served on you the day it was deposited in the United States mail. RCW 34.05.010(19)

*05319 Futurewise v. City of Auburn (November 29, 2005)*

**05-3-0019 Order of Dismissal**

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