

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

CAMWEST DEVELOPMENT, INC., et al.,	)	
Petitioners,	)	<b>Case No. 05-3-0012</b>
	)	
v.	)	<i>(Camwest I)</i>
	)	
CITY OF SAMMAMISH,	)	<b>ORDER FINDING</b>
	)	<b>COMPLIANCE [Re: Adoption</b>
Respondent.	)	<b>of Development Regulations]</b>
	)	
	)	

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**I. BACKGROUND**

On April 1, 2005, the Board issued its Order Finding Noncompliance – Failure to Act [failure to update implementing development regulations, including critical areas regulations]. The Order Finding Noncompliance contained the following findings and conclusions:

- RCW 36.70A.130(1)(a) required the City of Sammamish to “take legislative action to review, and if needed, revise its comprehensive land use plan and development regulations to ensure the plan and regulations comply with the requirements of [the GMA]” by December 1, 2004. *See* RCW 36.70A.130(4)(a).
- .....
- The City of Sammamish concedes that it has not acted to complete the update of its implementing development regulations as required by RCW 36.70A.130(1)(a) and (4)(a).
- Therefore the Board will enter an Order Finding Noncompliance – Failure to Act [regarding the City of Sammamish’s implementing development regulations and critical areas regulations].
- The Board will set forth a compliance schedule within which the City shall take the required action to update and revise its implementing development regulations.

Order Finding Noncompliance – Failure to Act, at 4-5.

The compliance schedule established by the Board’s April 1, 2005, order gave the City 180 days from the date of the order to achieve compliance. The compliance schedule was set forth as follows: 1) by September 29, 2005, the City is to take appropriate legislative action to comply with the Act; 2) the City is to file a statement of actions taken to comply

(SATC) with the Board by October 10, 2005; and 3) October 17, 2005, was the date set for the compliance hearing.

On October 10, 2005, the Board received a letter from the City requesting a revision to the compliance schedule to allow the City until December, 2005, to bring its development regulations into compliance. The City's letter was attached to a notebook entitled "Critical Areas Ordinance Update 2005," containing a number of exhibits concerning the work plan and process to date on updating the City of Sammamish critical areas regulations.

On October 14, 2005, the Board received a letter from Petitioners. While objecting to the City's actions on other grounds, Petitioners' letter stated: "Petitioners do not object to the City's request for an extension to the end of the year because of the legislative amendments made to RCW 36.70A.130 since the Board's Order in this case."

On October 17, 2005, at 10:00 a.m., the Board convened the Compliance Hearing by telephonic conference. Board Members Margaret Pageler and Bruce Laing were present for the Board. Bruce Disend represented the City of Sammamish, and Duana Kolouskova represented Petitioners. On October 20, 2005, the Board issued an Order Finding Continuing Noncompliance and Establishing a Second Compliance Schedule, which noted the City's progress on its critical areas ordinance revisions and the Legislature's 2005 amendment to RCW 36.70A.130. The Order stated:

- In the matter of *Camwest, et al., v. City of Sammamish*, CPSGMHB Case No. 05-3-0012, the City has stipulated that it was unable to adhere to the timeframe set forth in the compliance schedule in the Board's April 1, 2005, Order Finding Noncompliance – Failure to Act. The City has requested more time to complete the public process prior to taking legislative action to comply with the GMA. Therefore, **the Board finds the City of Sammamish is in continuing noncompliance in this matter.**
- The City of Sammamish is implementing a public process to review and revise its critical areas ordinances, with anticipated City Council adoption by December 2005. Therefore, pursuant to RCW 36.70A.130(10), the Board finds that **the City of Sammamish is making substantial progress toward compliance with the statutory deadline.**
- The Board hereby establishes a second compliance schedule for the City as set forth below.

Order Finding Continuing Noncompliance and Establishing a Second Compliance Schedule, at 3.

The second compliance schedule was set forth as follows: 1) by December 30, 2005, the City is to take appropriate legislative action to comply with the Act; 2) the City is to file a

statement of actions taken to comply (**SATC**) with the Board by January 13, 2006; and 3) January 23, 2006, was the date set for the compliance hearing.

On December 20, 2005, the City of Sammamish enacted Ordinance No. 02005-193 “Pertaining to the Protection and Regulation of Critical Areas,” with two attachments, amending the City’s Environmentally Critical Areas regulations in chapter 21A.50 of the Sammamish Municipal Code [attachment A] and making supplemental amendments to chapters 15.10, 16.15, 21A.15, 21A.30, 21A.85, and 21A.110 [attachment B].

On January 12, 2006, the Board contacted the parties requesting that the compliance hearing be conducted on the same day and directly following the Hearing on the Merits in CPSGMHB Case No. 05-3-0041, which involves the same parties. In the Board’s Order Rescheduling Hearings, the time of the Compliance Hearing was revised to the afternoon of January 24, 2006, immediately following the Hearing on the Merits in the other case.

On January 13, 2006, the Board received the City’s Statement of Actions Taken to Reply together with a certified copy of Ordinance No. 02005-193. Petitioners did not respond to the City’s SATC.

On January 24, 2006, the Board conducted the compliance proceeding in the above captioned matter. Board Member Margaret Pageler, convened the proceeding at approximately 4:15 p.m. Board Members Bruce C. Laing and Edward G. McGuire attended. Bruce Disend represented the City of Sammamish, and Duana Kolouskova represented Petitioners. The City briefly summarized its actions in adopting Ordinance No. 02005-193. Petitioners did not contest that the City has acted to update and revise its critical areas regulations as directed in the April 12, 2005 FDO.

## **II. DISCUSSION**

The Board finds and concludes:

1. The City of Sammamish adopted Ordinance No. 02005-193, including Exhibits A and B, on December 20, 2005.
2. Ordinance No. 02005-193 and the attached exhibits amend the City’s Municipal Code, specifically the City’s implementing development regulations pertaining to its environmentally critical areas.
3. By enacting Ordinance No. 02005-193 and the attached amendatory exhibits, the City of Sammamish has discharged its duty to act in updating its implementing development regulations, as required by RCW 36.70A.130(1) and (4). Therefore the Board will issue a Finding of Compliance.
4. The Board’s Finding of Compliance acknowledges that the City of Sammamish has complied with the “update action” requirements of RCW 36.70A.130 as interpreted in the Board’s April 1, 2005 Order Finding Noncompliance – Failure

to Act. The substance of the updated and amended implementing development regulations is not before the Board in this compliance review and is presumed valid.<sup>1</sup>

### **III. ORDER**

Based upon the Board's review of the GMA, prior decisions of the Boards, the April 1, 2005, Order Finding Noncompliance – Failure to Act [failure to update implementing development regulations, including critical areas regulations], Ordinance No. 02005-193 and attached exhibits, the City's Statement of Actions Taken to Comply, the presentations of the parties at the compliance hearing, and having discussed and deliberated on the matter, the Board ORDERS:

- The City of Sammamish's adoption of Ordinance No. 02005-193, with attached Exhibits A and B, discharges the City's duty to take action to update its implementing development regulations, including critical areas ordinances, as required by RCW 36.70A.130. Therefore, pertaining to this action, the Board enters a **Finding of Compliance**.

So ORDERED this 26<sup>th</sup> day of January, 2006.

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

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.

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<sup>1</sup> Any challenge to the substance of the updated critical areas regulations must be brought by a separate petition for review within the statutory time frame.

*05312 Camwest, et al. v. City of Sammamish* (January 26, 2006)

**05-3-0012 Order Finding Compliance**

**[Re: Adoption of Development Regulations]**