

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

DANIEL G. SMITH,)	
)	Case No. 07-3-0015
Petitioner,)	<i>(Smith)</i>
)	
v.)	
)	
CITY of BAINBRIDGE ISLAND,)	ORDER OF DISMISSAL
)	
Respondent,)	
and)	
)	
BAINBRIDGE ISLAND SCHOOL)	
DISTRICT,)	
)	
Intervenor.)	
)	
)	
)	

I. BACKGROUND

On February 6, 2007, the Central Puget Sound Growth Management Hearings Board (the **Board**) received a Petition for Review (**PFR**) from Daniel G. Smith (**Petitioner** or **Smith**). The matter was assigned Case No. 07-3-0015, and is hereafter referred to as *Smith v. City of Bainbridge Island*. Board member Margaret Pageler is the Presiding Officer (**PO**) for this matter. Petitioner challenges Bainbridge Island’s (**Respondent** or the **City**) adoption of Ordinance No. 2006-28. The basis for the challenge is noncompliance with various provisions of the Growth Management Act (**GMA** or **Act**).

On February 13, 2007, the Board issued its Notice of Hearing.

On February 15, 2007, the Board received a Notice of Appearance from Paul T. McMurray, City Attorney for the City of Bainbridge Island. On February 20, 2007, the Board received a Notice of Appearance from Jay P. Derr, of Buck and Gordon LLP, on behalf of Respondent City of Bainbridge Island.

On February 23, 2007, the Board received Bainbridge Island School District’s Motion to Intervene and the Declaration of Kenneth Crawford in Support of Bainbridge Island School District’s Motion to Intervene.

On February 26, 2007, the Board received City's Response to Bainbridge Island School District's Motion to Intervene, in support of intervention.

On March 7, 2007, the Board received the City's Index to the Record.

On March 8, 2007, the Prehearing Conference was convened in the Board's offices at 10:00 a.m. Board member Margaret Pageler presided, with Board member Dave Earling, Board law Clerk Julie Taylor and extern Moani Russell in attendance. Petitioner was represented by Charles Maduell and Stephen James on behalf of Dennis Reynolds of Davis Wright Tremaine, LLP. Petitioner Daniel Smith also attended. Respondent City of Bainbridge Island was represented by Jay Derr of Buck & Gordon. Intervenor Bainbridge Island School District was represented by Richard Hill of McCullough Hill, accompanied by the School District's Director of Facilities and Capital Projects Tamela J. Van Winkle.

The Board orally granted the motion of Bainbridge Island School District to intervene on the side of Respondent. On March 8, 2007, the Board received Petitioner's restated legal issues. On March 9, 2007, the Board issued its Prehearing Order and Order on Intervention.

On May 31, 2007, the Board received a Stipulate Motion and Order of Dismissal, signed by Smith and the City of Bainbridge Island, with a cover letter requesting that the Board dismiss the petition.

II. FINDINGS

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

Any action may be dismissed by a Board: (1) When all parties stipulate; ...

As clarified in the Prehearing Order, Petitioner and Respondent are the necessary parties to a stipulated dismissal. PHO (March 9, 2007), at 3.

B. Both Petitioner and Respondent to CPSGMHB Case No. 07-3-0015 have stipulated to dismissal of the appeal.

III. ORDER

Based upon review of the Petition for Review, the filings of the parties, the Board's Rules and having deliberated on the matter, the Board ORDERS:

- PFR No. 07-3-0015 is **dismissed**.
- CPSGMHB Case No. 07-3-0015 is **closed**.

So ORDERED this 1st day of June, 2007.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

Margaret A. Pageler
Presiding Officer

David O. Earling
Boardmember

Edward G. McGuire
Boardmember