CENTRAL PUGET SOUND
GROWTH MANAGEMENT HEARINGS BOARD
STATE OF WASHINGTON

JERRY HARLESS,	)	**Case No. 07-3-0032**
	)	
Petitioner,	)	***(Harless III)***
	)	
v.	)	
	)	**ORDER ON MOTION**
KITSAP COUNTY,	)	**FOR RECONSIDERATION**
	)	
Respondent.	)	
	)	

I. PROCEDURAL HISTORY

On November 9, 2007, the Central Puget Sound Growth Management Hearings Board (the **Board**) issued its "Order on Dispositive Motion" (**OoM**) in the above-captioned matter.

On November 15, 2007, the Board issued a "Corrected Order on Dispositive Motion" (**Corrected OoM**) in the above-captioned case. The Corrected OoM merely fixed typographical – clerical – errors in the November 9, 2007 OoM.[1]

On November 20, 2007, the Board received "Petitioner Harless' Request for Reconsideration and Modification of Dispositive Order" (**Harless Motion**).

On November 27, 2007, the Board received "Respondent Kitsap County's Answer to Motion to Reconsider" (**Kitsap Answer)** and Second Declaration of Shelley E. Kneip.

On November 29, 2007, the Board received Petitioner Harless' Reply to County's Answer to Motion to Reconsider (**Harless Reply**).

II. APPLICABLE LAW

WAC 242-02-832 provides in relevant part:

> (1) After issuance of a final decision any party may file a motion for reconsideration with a board in accordance with subsection (2) of this section. Such motion must be filed within ten days of service of the final decision. The original and three copies of the motion for

[1] Compare and contrast the changes in the two Orders: the rationale, reasoning, findings and conclusions remain the same.

reconsideration shall be filed with the board. At the same time, copies shall be served on all parties of record. Within five days of filing the motion for reconsideration, a party may file an answer to the motion for reconsideration without direction or request from the board. A board may require other parties to supply an answer. All answers to motions for reconsideration shall be served on all parties of record.

(2) A motion for reconsideration shall be based on at least one of the following grounds:
   a. Errors of procedure or misinterpretation of fact or law, material to the party seeking reconsideration;
   b. Irregularity in the hearing before the board by which such party was prevented from having a fair hearing; or
   c. Clerical mistakes in the final decision and order.

III. MOTION FOR RECONSIDERATION

OoM and the Motion:

In the November 9, 2007 OoM, the Board granted Kitsap County's motion to dismiss and dismissed with prejudice the Harless Petition for Review. OoM, at 7.

On reconsideration, Petitioner offers "clarifying background" and asks the Board to strike portions of the OoM, add or modify findings, and generally revise the Order. Harless Motion, at 1-11.

In response, the County notes that Petitioner does not ask the Board to reconsider the substance of the OoM dismissing the PFR. Kitsap Answer, at 1. Although the County asserts that the Petitioner has not provided legitimate grounds for a motion for reconsideration, the County responds to each of the arguments made by Petitioner. *Id*. at 2-9.

Board Discussion

A motion for reconsideration must be filed within 10 days of service of the final order. WAC 242-02-832(1). The *final order* disposing of this case was issued on November 9, 2007. The Harless Motion was received on November 20, 2007, *after* the ten-day period for filing a motion to reconsider had lapsed. The Harless Motion is **untimely** and is **denied**.

The Corrected OoM was issued at the Presiding Officer's request to correct typographical errors that were made in the November 9, 2007 OoM. Other than minor corrections such as tenses, footer dates, spelling check, and word error (e.g., Footnote 13, 1st sentence, *legislature*-to-*legislation*) no substantive changes were made to the November 9, 2007 Order, which the Board has determined is the final order.

The Board notes that Petitioner offers no valid grounds for reconsideration, but rather asks the Board to refashion and revise the OoM to clarify or correct matters not material to the Board's ruling.

IV. ORDER

Having reviewed the November 9, 2007 OoM, the November 15, 2007 Corrected OoM, the Harless Motion, the Kitsap Answer, the relevant provisions of the GMA and the Board's Rules of Practice and Procedure, prior decisions of the Boards, and having deliberated on the matter, the Board ORDERS:

1. The Harless Request for Reconsideration and Modification of Dispositive Order is untimely and therefore **DENIED.**

So ORDERED this 30th day of November, 2007.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

_____
Edward G. McGuire
Board Member

_____
David O. Earling
Board Member

_____
Margaret A Pageler
Board Member

Note: This order constitutes a final order as specified at WAC 242-02-832(4). Orders on Reconsideration are not subject to additional motions for reconsideration. WAC 242-02-832(3).