



On August 19, 2009, the Board received Third Request for Settlement Extension in Case No. 09-3-0001, signed on behalf of Petitioners and Respondent, requesting an additional 90-day extension in order to allow the parties to pursue continued settlement efforts. The date for a status report on settlement progress in Case No. 09-3-0009 is September 23.

## **II. ORDER GRANTING THIRD SETTLEMENT EXTENSION**

RCW 36.70A.300(2) provides that the final order of the Board shall be issued within one hundred eighty days of receipt of the petition for review, except that the time may be extended to enable the parties to settle the dispute if an extension for that purpose is requested by all parties.

The Board finds that all the parties to this matter have stipulated that they are pursuing settlement. In Case No. 09-3-0001, the parties have requested a third settlement extension of ninety days to allow continued settlement discussions. In Case No. 09-3-0009, a first 90-day extension is still pending.

The Board concludes that the request for a third settlement extension in Case No. 09-3-0001 is timely and has been stipulated to by both parties [RCW 36.70A.300(2)]. The Third Request for Settlement Extension is **granted**. The Board will extend the date for the Final Decision and Order by *ninety days* to **April 12, 2010**, and will revise the case schedule, applying this FDO date to the consolidated case as set forth below.

The Petitioners shall file and serve a status report on **November 18, 2009**. **If the parties request an additional settlement extension, the Board will require specific information as to the meetings held and the anticipated schedule for final resolution. The Board may convene a teleconference to determine whether any further extension is warranted.**

## **III. ORDER CONSOLIDATING CASES 09-3-0001 and 09-3-0009**

RCW 36.70A.290(5) provides:

The board shall consolidate, when appropriate, all petitions involving the review of the same comprehensive plan or the same development regulation or regulations.

While Case No. 09-3-0001 and Case No. 09-3-0009 challenge separate legislative enactments of the City of Mukilteo, adopted at different times, the enactments concern the same comprehensive plan and development regulation provisions, the first Ordinance being implemented by the second set of actions. In both cases, the parties are identical and have stipulated that they are pursuing settlement negotiations. The Board presumes the subject matter of the negotiations is the same for both cases. Similarly, it appears to the Board that both of the petitions for review arise out of the same facts and present the same threshold jurisdictional question and parallel legal issues.

In the interest of efficient resolution, the Board therefore **consolidates** Case Nos. 09-3-0001 and 09-3-0009 as **CPSGMHB Consolidated Case No. 09-3-0009c**, *Lake Road Group II v. City of Mukilteo*. The schedule for the consolidated case is set forth below.

**IV. AMENDED CASE SCHEDULE**  
**FOR CONSOLIDATED CASE No. 09-3-0009c**

**AMENDED SCHEDULE**  
*CPSGMHB Case No. 09-3-0009c*  
*Lake Road Group II v. City of Mukilteo*

**All documents must be filed with the Board (one original plus four copies on three-hole punched paper and copied back-to-back) by 4:00 p.m. and a copy served upon the other party on the designated day, unless otherwise noted. Please also file all documents electronically, in WORD format, at [central@cps.gmhb.wa.gov](mailto:central@cps.gmhb.wa.gov).**

DATE	EVENT
August 24, 2009	Third Settlement Extension and Consolidation Order
<b>November 18, 2009</b>	<b>Petitioners' Status Report due</b>
<b>November 30, 2009</b>	<b>Prehearing Conference: 10:00 a.m., location to be decided<sup>1</sup></b>
November 30, 2009	Deadline for Respondent's Index (original plus one copy) <sup>2</sup>
<b>December 4, 2009</b>	<b>Board Prehearing Order due</b>
December 16, 2009	Deadline for Motions <sup>3</sup> and Memoranda in support (with exhibits)
December 30, 2009	Deadline for Response to motions (with exhibits)
January 5, 2009	Deadline for Rebuttal to Response to Motions (optional)
<b>January 19, 2010</b>	<b>Board Order on Motions due</b>
February 2, 2010	Deadline for Petitioner's Prehearing Brief ( <b>with exhibits</b> )
February 16, 2010	Deadline for Respondent's Prehearing Brief ( <b>with exhibits</b> )
February 23, 2010	Deadline for Requesting Settlement Extension <sup>4</sup>
February 23, 2010	Deadline for Petitioner's Reply Brief (optional)
<b>March 1, 2010</b>	<b>Hearing on Merits of Petition: 10:00 a.m.-12:30 p.m., location to be decided</b>
<b>April 12, 2010</b>	<b>Final Decision and Order due</b>

<sup>1</sup> The Board's Seattle office has been closed. Hearing locations will be set on a case-by-case basis.

<sup>2</sup> Pursuant to WAC 242-02-522(16) the presiding officer has waived the thirty-day filing requirement for the Index. The Index shall be provided at the PHC.

<sup>3</sup> Motions to supplement the record and dispositive motions.

<sup>4</sup> See: RCW 36.70A.300(2).

## V. ORDER

Based upon review of the parties' request, the GMA and the Board's Rules of Procedure, and the findings and conclusions noted above, the Board enters the following Order:

1. Case No. 09-3-0001 and Case No. 09-3-0009 are consolidated as Consolidated Case No. 09-3-0009c.
2. The request for a *ninety-day* settlement extension is **granted**.
3. The Petitioners shall file and serve a status report on **November 18, 2009**. If the parties request an additional settlement extension, the Board will require **specific information as to the meetings held and the anticipated schedule for final resolution**. The Board may convene a teleconference to determine whether any further extension is warranted.
4. A new Case Schedule is established, as indicated in the Amended Schedule above.
5. The Prehearing Conferences and Hearings on the Merits previously scheduled are **cancelled**. The Hearing on the Merits in the consolidated case will be held at **10:00 a.m. March 1, 2010**, at a location to be decided.
6. The deadline for the Final Decision and Order in Consolidated Case No. 09-3-0009c is **April 12, 2010**.

So ORDERED this 25<sup>th</sup> day of August, 2009.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

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Margaret A. Pageler  
Presiding Officer