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**State of Washington
GROWTH MANAGEMENT HEARINGS BOARD
FOR EASTERN WASHINGTON**

KATHY MIOTKE and NEIGHBORHOOD
ALLIANCE OF SPOKANE,

Petitioners,

v.

SPOKANE COUNTY,

Respondent,

RIDGECREST DEVELOPMENTS, L.L.C., FIVE
MILE CORPORATION, NORTH DIVISION
COMPLEX, L.L.C., CANYON INVESTMENTS,
INC., J. DONALD and VALENA CURRAN,
and STEPHEN W. TREFTS d/b/a
NORTHWEST TRUSTEE & MANAGEMENT
SERVICES,

Intervenors.

Case No. 05-1-0007

ORDER ON MOTIONS TO
INTERVENE AND SEEKING RECUSAL

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I. PROCEDURAL HISTORY

On August 25, 2005, KATHY MIOTKE and NEIGHBORHOOD ALLIANCE OF SPOKANE, by and through their representatives, Kathy Miotke and Bonnie Mager, filed a Petition for Review.

On September 1, 2005, the Board received Ridgecrest Developments, L.L.C., Five Mile Corporation, North Division Complex, L.L.C., Canyon Investments, INC., J. Donald and Valena Curran, and Stephen W. Trefts d/b/a Northwest Trustee & Management Services' Motion and Brief in Support of Motion to Intervene.

1 On September 12, 2005, the Board received Petitioner's Opposition to Motion to
2 Intervene.

3 On September 16, 2005, the Board received Respondent, Spokane County's Motion
4 to Recuse.

5 On September 21, 2005, the Board held the Prehearing conference. Present were,
6 Dennis Dellwo, Presiding Officer, and Board Member Judy Wall. Board Member John
7 Roskelley was unavailable. Present for Petitioners were Kathy Miotke and Bonnie Mager.
8 Present for Respondent was Martin Rollins. Present for Intervenors was Margaret Arpin.

9 On September 21, 2005, the Board heard the CANYON INVESTMENT et al., Motion to
10 Intervene and the COUNTY'S Motion to Recuse. The Respondent did not object to the
11 Motion to Intervene. The Petitioners did object contending that the County adequately
12 represented their interests and the addition of 5 new parties would be disruptive and
13 unnecessary.

14 On September 28, 2005, the Board issued its Prehearing Order.

15 **II. MOTION TO INTERVENE**

16 The Board finds that the interests of the proposed Intervenors and the County are
17 different and the proposed Intervenors otherwise qualify as Intervenors under WAC 242-02-
18 270(1) and (2). The proposed Intervenors are allowed to intervene in this matter. The
19 Intervenors are limited to the filing of one Brief and to the appearance of one
20 representative before the Board. The Intervenors participation is further limited to the
21 issues specifically affecting their interests. The Intervenors will designate for the Board the
22 issues that are of particular interest and require their involvement. This will be provided to
23 the Board and a copy to the other parties prior to the deadline for submission of motion.

24 **III. MOTION SEEKING RECUSAL**

25 The County's motion seeks the recusal of John Roskelley from participating in this
26 matter. The County contends that Mr. Roskelley considered the identical issues found herein
in 2003, as a Spokane County Commissioner. In that case, the County Commissioners
denied the requests to amend the Comprehensive Plan. The County makes no allegation

1 that Mr. Roskelley would be bias or prejudice. They do contend, however, that, because he
2 has already rendered a decision in his role as a County Commissioner, the County feels that
3 he cannot be impartial in hearing and considering the subject appeal.

4 The Board does not find that Mr. Roskelley has personal bias or prejudice signifying
5 an attitude for or against a party in this matter. The fact that as a County Commissioner he
6 has ruled on a previous application similar to this one, does not evidence a personal bias or
7 prejudice against a party. Mr. Roskelley made a decision that may have indicated his
8 leanings as a decision-maker with those particular facts, but there is no evidence of actual
9 or potential bias to support an appearance of fairness claim. *State v. Post*, 118 Wn.2d 596,
10 619, 826 P. 2d 172 (1992). The County Commissioners, without Mr. Roskelley, again
11 considered the matter and a different determination was made. Mr. Roskelley will consider
12 the evidence before this Board, apply it to the laws governing the GMA and make a
13 determination based upon those facts and law. The evidence before the Board does not
14 require John Roskelley's recusal.

14 IV. ORDER

15 The Motion to Intervene is granted with the above conditions. The Motion of the
16 County seeking John Roskelley's recusal is denied.

17 **SO ORDERED** this 28th day of September 2005.

18 EASTERN WASHINGTON GROWTH MANAGEMENT
19 HEARINGS BOARD

20 _____
Dennis Dellwo, Board Member

21 _____
22 John Roskelley, Board Member

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24 Judy Wall, Board Member