



1 On June 20, 2006, the Board held the Hearing on the Merits. Present were, Judy  
2 Wall, Presiding Officer, and Board Members Dennis Dellwo and John Roskelley. Present for  
3 Petitioner was Vince Panesko. Present for Respondent was George Fearing.

4 A Final Decision and Order was entered herein on July 19, 2006, finding that the  
5 Petitioner had not carried his burden of proof.

6 On July 28, 2006, the Board received Petitioner's Motion for Reconsideration.

### 7 **III. DISCUSSION**

8 The Board has reviewed the briefing of the Petitioner and determines that it will not  
9 reconsider its July 19, 2006, decision in this matter. However, the Board does wish to  
10 discuss several of the issues raised by the Petitioner in his motion.

11 The Petitioner contends that the Board failed to acknowledge that the change in  
12 designation of parts of the Marina Park from open space (park) to waterfront was  
13 inconsistent with the policies in the comprehensive plan to preserve waterfront parkland.  
14 This assertion is of course not necessarily true. The Marina Park can be enhanced by the  
15 addition of a commercial enterprise. The City argued that a proposed expansion of  
16 Anthony's would provide a facility needed by boaters and others that use the site. The City's  
17 judgment in this area is to be deferred to.

18 The Petitioner further contends that the City mistakenly claimed that a draft map  
19 showing a new access road and expanded parking was part of the Ordinance passed by the  
20 City Council on December 6, 2005. It appears that this is not the case. The Petitioner  
21 contends that the Board gave Richland credit for such efforts and reconsideration should be  
22 granted. This is not the case. The Board did not base its determination that the Petitioner  
23 had not carried his burden of proof upon the draft map or the testimony regarding the  
24 negotiations to mitigate the complaints of the boaters.

25 The majority of the Board did not base its decision on the claimed economic benefits  
26 as the Petitioner claims. The Petitioner claims in his Motion for Reconsideration that the  
Woodfire Grill is no longer going to be built at the location discussed in this case. Therefore,  
the economic benefit is no longer even an issue.

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2 The Petitioner further claims that "legally the Planning Commission was the only group  
3 within the City with the charter to make decisions on land use planning". (Page 17 Motion  
4 for Reconsideration). This board recognizes that the City Council looks to the Planning  
5 Commission for direction, but the ultimate decision maker is the City Council not the  
6 Planning Commission.

### 7 **VIII. ORDER**

8 The Board denies the Petitioner's Motion to Reconsider and will not reconsider its  
9 July 19, 2006, Final Decision and Order in this case.

10 Pursuant to RCW 36.70A.300 this is a final order of the Board.

#### 11 **Reconsideration:**

12 Pursuant to WAC 242-02-832, you have ten (10) days from the mailing of this  
13 Order to file a petition for reconsideration. Petitions for reconsideration shall  
14 follow the format set out in WAC 242-02-832. The original and four (4) copies of  
15 the petition for reconsideration, together with any argument in support thereof,  
16 should be filed by mailing, faxing or delivering the document directly to the  
17 Board, with a copy to all other parties of record and their representatives. **Filing**  
18 **means actual receipt of the document at the Board office.** RCW 34.05.010(6),  
19 WAC 242-02-330. The filing of a petition for reconsideration is not a  
20 prerequisite for filing a petition for judicial review.

#### 21 **Judicial Review:**

22 Any party aggrieved by a final decision of the Board may appeal the decision to  
23 superior court as provided by RCW 36.70A.300(5). Proceedings for judicial  
24 review may be instituted by filing a petition in superior court according to the  
25 procedures specified in chapter 34.05 RCW, Part V, Judicial Review and Civil.  
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1 **Enforcement:**

2 The petition for judicial review of this Order shall be filed with the appropriate  
3 court and served on the Board, the Office of the Attorney General, and all parties  
4 within thirty days after service of the final order, as provided in RCW 34.05.542.  
5 Service on the Board may be accomplished in person or by mail. Service on the  
6 Board means actual receipt of the document at the Board office within thirty  
7 days after service of the final order.

7 **Service:**

8 This Order was served on you the day it was deposited in the United States mail.

9 RCW 34.05.010(19)

10 SO ORDERED this 9<sup>th</sup> day of August 2006.

11 EASTERN WASHINGTON GROWTH MANAGEMENT  
12 HEARINGS BOARD

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14 \_\_\_\_\_  
15 Judy Wall, Board Member

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17 \_\_\_\_\_  
18 Dennis Dellwo, Board Member