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

VINCE PANESKO,

Petitioner,

v.

CITY OF RICHLAND,

Respondent.

Case No. 06-1-0001

FINAL DECISION AND ORDER

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I. SYNOPSIS

This case is about 1.1 acres of land that has been re-designated from developed open space to waterfront. The property is part of a 14.4 acre Marina Park and abuts the Anthony's Restaurant.

The Petitioner claims the result of this re-designation not only takes away needed land for the marina, but also is not consistent with the comprehensive plan and its policies and goals for the City of Richland.

The City in 2005, received a request from Anthony's Restaurant to lease a portion of the Marina Park for a more casual restaurant, called the Woodside Grill that would be geared toward boaters.

The Petitioner claims the park would lose one parking spot, an access road for the boat ramps, decreased space for parking trailers, and eliminate an RV maintenance station.

The Respondent has shown that there would be the same boat launch area, same parking (except for a loss of two parking spaces), lawn space, an access road as before, an RV maintenance station and an area to have a casual dinner or for take-out. The City believes this area will be utilized by more people than it is now.

1 While this may not be the choice this Board would have made, the County's
2 amendment is presumed valid unless an error was clearly made and the City's actions were
3 clearly erroneous.

4 The majority of this Board finds the Petitioner did not meet his burden of proof and
5 the City's amendment is not found to be out of compliance.

6 **II. PROCEDURAL HISTORY**

7 On February 1, 2006, VINCE PANESKO, filed a Petition for Review.

8 On February 27, 2006, the Board held a telephonic Prehearing conference. Present
9 were, Judy Wall, Presiding Officer, and Board Members Dennis Dellwo and John Roskelley.
10 Present for Petitioner was Vince Panesko. Present for Respondent was Mr. Fearing.

11 On March 6, 2006, the Board issued its Prehearing Order.

12 On March 20, 2006, the Board received Petitioner Panesko's Motion to Supplement
13 Index.

14 On March 24, 2006, the Board received Respondent's Objection to Petitioner's Motion
15 to Supplement Index.

16 On April 18, 2006, the Board held the telephonic motion hearing. Present were Board
17 Members Dennis Dellwo and John Roskelley. Presiding Officer, Judy Wall was unavailable.
18 In Ms. Wall's absence, Dennis Dellwo acted as Presiding Officer. Present for Petitioner was
19 Vince Panesko. Present for Respondent was George Fearing.

20 On April 19, 2006, the Board issued its Order on Motion to Supplement Index.

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

24 **III. PRESUMPTION OF VALIDITY, BURDEN OF PROOF AND STANDARD OF** 25 **REVIEW**

26 Comprehensive plans and development regulations (and amendments thereto)
adopted pursuant to Growth Management Act ("GMA" or "Act") are presumed valid upon
adoption by the local government. RCW 36.70A.320. The burden is on the Petitioners to

1 demonstrate that any action taken by the respondent jurisdiction is not in compliance with
2 the Act.

3 The Hearings Board will grant deference to counties and cities in how they plan
4 under Growth Management Act (GMA). RCW 36.70A.3201. But, as the Court has stated,
5 "local discretion is bounded, however, by the goals and requirements of the GMA." *King*
6 *County v. Central Puget Sound Growth Management Hearings Board*, 142 Wn.2d 543, 561,
7 14 P.2d 133 (2000). It has been further recognized that "[c]onsistent with *King County*, and
8 notwithstanding the 'deference' language of RCW 36.70A.3201, the Board acts properly
9 when it foregoes deference to a . . . plan that is not 'consistent with the requirements and
10 goals of the GMA." *Thurston County v. Cooper Point Association*, 108 Wn. App. 429, 444, 31
11 P.3d 28 (2001).

12 Pursuant to RCW 36.70A.320(3) we "shall find compliance unless [we] determine
13 that the action by [Jefferson County] is clearly erroneous in view of the entire record before
14 the Board and in light of the goals and requirements of [the GMA]." In order to find the
15 County's action clearly erroneous, we must be "left with the firm and definite conviction that
16 a mistake has been made." *Department of Ecology v. Public Utility Dist. 1*, 121 Wn.2d 179,
17 201, 849 P.2d 646 (1993).

18 The Hearings Board has jurisdiction over the subject matter of the Petition for
19 Review. RCW 36.70A.280(1)(a).

20 IV. ISSUES AND DISCUSSION

21 Issue Nos. 1 & 2:

22 Whether that section of Ordinance 47-05 (2005 Comp Plan amendments), which
23 reclassifies 1.1 acres of Columbia Point Marina Park to allow commercial development, is
24 consistent with the City of Richland Comprehensive Plan (CP) as required by RCW
25 36.70A.130(1)(b) and RCW 36.70A.070 preamble?

26 Whether that section of Ordinance 47-05 (2005 Comp Plan amendments), which
reclassifies 1.1 acres of Columbia Point Marina Park to allow commercial development is
consistent with the City of Richland CP goals and policies as required by RCW
36.70A.130(1)(b) and RCW 36.70A.070 preamble?

1 Issues No. 1 and No. 2 are identical except for the fact that in Issue No. 2 the
2 Petitioner asks if the subject amendments are consistent with the City of Richland CP goals
3 and policies . Therefore, the Board has grouped the issues together for discussion.

4 **The Parties' Position:**

5 **Petitioner:**

6 The Petitioner claims the reclassification of the 1.1 acres of Columbia Point Marina
7 Park, which will now allow a commercial venue, was intended as parklands and open space.
8 The Petitioner goes on to cite the Comprehensive Plan, which in part says "Based on the
9 City's large land holdings, it is not expected that growth under the comprehensive plan will
10 result in the conversion of designated open space to urban uses." Ex. 25 Comprehensive
11 Plan, Land Use Element, Section 5 – Environment, Pages 5-12. (Attachment 11).

12 The Petitioner further claims the City had other options in the same area that
13 wouldn't need to take away from the park and open space. The Petitioner claims there is
14 even a vacated restaurant that could be taken over, and land available close to the current
15 Anthony's restaurant.

16 The Petitioner claims that while the Richland Planning Commission made the
17 recommendation, 8 to 1, not to make the Comprehensive Plan change, the City Council
18 voted to make the designation change in the 2005 Comprehensive Plan amendments.

19 The Petitioner claims that by re-designating the developed open space lands to
20 commercial, the City's Comprehensive Plan is internally inconsistent. The Comprehensive
21 Plan committed the County to the preservation of waterfront parks.

22 The Petitioner claims that by changing the designation of 1.1 acres of Marine Park,
23 (open space) to commercial does not protect or conserve natural resources, (Land Use Goal
24 6). The Petitioner also cites RCW 36.70A.020(9), a goal, which in part says: encourage the
25 retention of open space.
26

1 The Petitioner claims Land Use Goal 6, Policy 1, advocates making all public river
2 shoreline accessible to the public and by removing this portion of the land from open space
3 is inconsistent with Goal 6, Policy 1.

4 The Petitioner goes on to say that Land Use Goal 2 states in part:

5 Provide responsible stewardship of the community's unique natural habitat,
6 ecologically sensitive and scenic waterfront area, and develop public
recreational activities appropriate to these venues.

7 Objective 3 of Goal 2 is to "Provide public access and use of the Columbia River etc."

8 The Petitioner claims this goal is now inconsistent with the amendment of the Capital
9 Facilities Element and Objective 3. The Petitioner claims by re-designating the 1.1 acres
10 impacts the park by reducing access to the boat ramps, eliminates the RV maintenance
11 station, and reduces parking by one space.

12 **Respondent:**

13 The Respondent argues that the thirteen goals are to help guide the jurisdiction in
14 the development and adoption of comprehensive plans and development regulations. That
15 the intent of the GMA is to allow local governments wide discretion in the development of
16 their comprehensive plans and to recognize their local conditions within the framework and
guidelines of the GMA goals.

17 The Respondent states the City did consider the guidelines of the goals by looking to
18 several locations, the debt it could service by this location, and the increase in business to
19 that part of the City of Richland. Tab 6, Ex. 6; Tab 17, Ex. 17.

20 The City also found there was no loss of boat trailer spaces and only two parking
21 spaces would be lost. Tab 6, Ex. 6; Tab 17, Ex. 17. Also in the same tab and exhibit, the
22 Respondent shows that there would be no loss to the boat launch original width.

23 The Respondent states that the Parks and Recreation Commission recommended in
24 favor of the amendment along with the Economic Development Advisory Committee while
25 the Planning Commission did not recommend the amendment.
26

1 Finally the Respondent states that while the City has re-designated these 1.1 acres,
2 the City has gained over eighty-three acres of park land since the original comprehensive
3 plan that was adopted in 1997.

4 RCW 36.70A.130(1)(a) states:

5 Each comprehensive land use plan and development regulations shall be
6 subject to continuing review and evaluation by the county or city that adopted
7 them. Except as otherwise provided, a county or city shall take legislative
8 action to review and, if needed, revise its comprehensive land use plan and
9 development regulations to ensure the plan and regulations comply with the
10 requirements of this chapter according to the time periods specified in
11 subsection (4) of this section.

12 RCW 36.70A.130(1)(b) states:

13 Except as otherwise provided, a county or city not planning under RCW
14 36.70A.040 shall take action to review and, if needed, revise its policies and
15 development regulations regarding critical areas and natural resource lands
16 adopted according to this chapter to ensure these policies and regulations
17 comply with the requirements of this chapter according to the time periods
18 specified in subsection (4) of this section. Legislative action means the
19 adoption of a resolution or ordinance following notice and a public hearing
20 indicating at a minimum, a finding that a review and evaluation has occurred
21 and identifying the revisions made, or that a revision was not needed and the
22 reasons therefore.

23 The Respondent contends they reviewed Goals 5-13 when considering the map
24 amendment and re-designation of developed open space to waterfront in the Columbia
25 Point Marine Park.

26 Goal 5: Economic Development. City should encourage development throughout the
state that is consistent with adopted comprehensive plans, promote economic opportunity
for all citizens of this state, especially for unemployed and for disadvantaged person, and
encourage growth in areas experiencing insufficient economic growth, all within the
capacities of the state's natural resources, and public services, and public facilities.

Review. The proposed comprehensive map amendment involves property located in
the Columbia Pont Marina Park, north of Columbia Point Drive in Richland. The map

1 amendment to change the land use designation from Developed Open Space to Waterfront
2 will not discourage economic development and thus is not inconsistent with this goal.

3 Goal 8: Natural Resource Industries. City should maintain and enhance natural
4 resource-based industries, including productive timber, agricultural, and fisheries industries.
5 Encourage the conservation of productive forestlands and productive agricultural lands, and
6 discourage incompatible uses.

7 Review. The comprehensive plan map amendment does not involve lands designated
8 as natural resource based industrials. These lands are not suitable for productive timber,
9 agricultural, and fisheries industries because (1) there are no timber resources present; (2)
10 land is not used for agricultural purposes; and (3) there is no water to support fisheries
11 industries.

12 Goal 9. Open Space. City should encourage the retention of open space and
13 development of recreational opportunities, conserve fish and wildlife habitat, increase
14 access to natural resource lands, and water, and develop parks.

15 Review. The comprehensive plan map amendment does not encroach on nor impact
16 any of the currently established open space, recreational lands, fish and wildlife habitat,
17 natural resource lands or parks. The amendment simply seeks to change the land use
18 designation for a portion of an inner-city parcel from Developed Open Space to Waterfront
19 in the Columbia Pont Marina Park.

20 Goal 10. Environment. City should protect the environment and enhance the state's
21 high quality of life, including air and water quality, and the availability of water.

22 Review. The comprehensive plan map amendment was reviewed under the State
23 Environmental Policy Act and was determined to have no significant impact on air and water
24 quality and the availability of water.

25 The City states their Comprehensive Plan was adopted in 1997. The City may amend
26 its Comprehensive Plan. The City cites RCW 36.70A.130, which in part states:

1 (1)(a) Each comprehensive land use plan and development regulations shall
2 be subject to continuing review and evaluation by the ... city that adopted
them...

3 (d) Any amendment ... to a comprehensive land use plan shall conform to this
4 chapter...

5 The Respondent states the Legislature intended a comprehensive plan to be
6 amended as long as it conformed to RCW 36.70A.

7 The Respondent furthers states that development regulations mean the controls
8 placed on development or land use activities by a city, which includes zoning, ordinances,
9 shoreline master programs, ordinances and binding city plans. RCW 36.70A.030(7).

10 The Respondent claims the Petitioner has misread the law by saying the
11 Comprehensive Plan cannot be amended if it is not consistent with the 1997, original
12 Comprehensive Plan. The Respondent states the Legislature not only allows amendments, it
13 further requires the development regulations remain consistent with the comprehensive
plan, original or amended.

14 **Petitioner's Reply Brief:**

15 The Petitioner claims the City of Richland has misrepresented Petitioner's arguments
16 by saying the 1997 Comprehensive Plan is no longer pertinent. The Petitioner claims the
17 City must amend the Comprehensive Plan to fit the current policies.

18 The Petitioner claims the City has no policy that allows parkland to be leased or sold
19 and that the Comprehensive Plan protects existing park land. Pages 9-13 of Petitioner's
20 Hearing on the Merits brief.

21 The Petitioner claims the 83 acres of parkland that has been added is associated to
22 new developments, and has nothing to do with the 1.1 acres that this case is about.

23 **Board Analysis:**

24 RCW 36.70A.020(5) in part states:

25 Economic development. Encourage economic development throughout the
26 state that is consistent with adopted comprehensive plans, ...

1 RCW 36.70A.020(9) states:

2 Open space and recreation. Retain open space, enhance recreational
3 opportunities, conserve fish and wildlife habitat, increase access to natural
4 resource lands and water, and develop parks and recreation facilities.

5 The Legislature was very clear when they said the Board must give deference to local
6 jurisdictions and only find non-compliance when an error was clearly made and the City's
7 action is clearly erroneous in view of the entire record before the board and in light of the
8 goals and requirements of the GMA.

9 The Respondent cites *Manke, Inc. v. CPSGMHB*, where the Court found that no one
10 factor prevails over any other and it was recognized that at times the thirteen goals may
11 conflict with one another.

12 The City looked at several other sites when they considered the request and rejected
13 them as they might adversely impact boaters and other park users. The City also looked at
14 the debt it could service by this development and the increase in business to this section of
15 the City of Richland.

16 The City found the loss of two parking spaces and no other net loss was worth the
17 re-designation. The new Anthony's restaurant would be a natural for the boaters entering
18 and leaving the water.

19 Diahann Howard, the Economic Development Manager for the Business and
20 Economics Development Office of the City of Richland, found Anthony's Homeport
21 Restaurant as a possible lessee of the property in the Columbia Point Marina Park. This
22 research found the proposed Industrial Development Property could be re-designated so
23 the lease revenue could be put to use for supporting other park projects.

24 The Respondent recognizes the Planning Commission did not recommend this
25 amendment, but with the recommendation of the Parks & Recreation Commission, and the
26 Economic Development Advisory Committee, the City of Richland decided to approve the
27 amendment.

1 The Board must give deference to the City in their decision making unless a clearly
2 erroneous error has been made. The City has the authority to redesignate this property so it
3 may be leased to a commercial operation. The procedure followed was correct and, while
4 objected to by many of the citizens of Richland, the City's redesignation of the property is
5 not clearly erroneous.

6 **Conclusion:**

7 The Petitioner has not met his burden of proof on these issues.

8 **Issue No. 3:**

9 If the section of Ordinance 47-05 which reclassifies 1.1 acres of Columbia Point
10 Marina Park to allow commercial development is found noncompliant, will continued
11 development of the property during the remand period create substantial interference with
12 the fulfillment of goal 9 of the GMA for failure to encourage the retention of open space,
13 failure to develop recreational opportunities, failure to increase access to natural resource
14 water, and failure to develop parks?

15 **Conclusion:**

16 The majority of the Board has found the Petitioner has not met his burden of proof,
17 therefore Issue No. 3 need not be addressed.

18 **V. FINDINGS OF FACT**

- 19 1. Richland is a city located east of the crest of the Cascade Mountains
20 and is required to plan under Chapter 36.70A.
- 21 2. Petitioner is a citizen of Richland and participated in the adoption of
22 Ordinance 47-05 through testimony.
- 23 3. Petitioner raised three legal issues addressed in his Petition for Review
24 to the City.
- 25 4. The City of Richland enacted Ordinance 47-05 on December 6, 2005.
- 26 5. Petitioners filed their petition for review on February 1, 2006.
6. On August 2, 2005, the Richland Planning Department received, from
the City of Richland, a Petition to Amend [Richland's] Comprehensive

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Plan. The petition requested an amendment, to the designation of a section of park property, from Developed Open Space to Waterfront.

7. The principal purpose behind the proposed amendment was to declare the property surplus, so the City of Richland could lease the property, for a proposed restaurant, under consideration by a subcommittee of the Richland Parks Commission. The petition contemplated that revenues from leasing the land would be used by the Richland Parks Department for maintenance and operation of parks.

8. In order to lease the property for the proposed restaurant, the City of Richland must amend its Comprehensive Plan. Pursuant to Chapter 3.06 of Richland's Municipal Code, the property must also be declared surplus.

9. On September 8, 2005, the Richland City Parks and Recreation Commission, after giving due notice, considered the proposed restaurant lease at Columbia Point Marina Park. After discussion and comment, the Commission approved a recommendation that city staff continue with planning and negotiations for the lease and that subcommittees be appointed for research of the proposed project.

10. On September 14, 2005, a city staff report was provided to the City of Richland Planning Commission. The report recommended that the Comprehensive Plan and map be amended to re-designate some property from Developed Open Space to Waterfront on the comprehensive plan map and from Public Reserve to Waterfront on the zoning map. The staff report considered and reviewed the thirteen factors found in RCW 36.70A.020, a portion of the Growth Management Act.

11. On November 1, 2005, the Richland City Council conducted, after due notice, a public hearing on the proposed 2005 Comprehensive Plan

1 Amendments. Included in the proposal was the reclassification of 1.1
2 acres from Developed Open Space designation to a Waterfront
3 designation on a portion of Columbia Point Marina Park and a rezoning
4 of the same parcel to Waterfront zoning. On November 15, 2005, the
5 Richland City Council determined to delete the rezoning action on the
6 1.1 acres.

7 13. Because of objections by the public to the placement of a restaurant on
8 the 1.1 acres, city staff redesigned the proposed restaurant project, in
9 order to retain wide access to the nearby boat launch and to create
10 additional parking spaces in the park area.

11 14. On December 6, 2005, the Richland City Council, after due notice,
12 adopted Ordinance amending the City of Richland comprehensive plan
13 and, in part, reclassifying 1.1 acres from Developed Open Space to
14 Waterfront on property located at Columbia Point Marina Park.

15 15. When adopting Ordinance 47-05, the Richland City Council considered
16 and reviewed the thirteen factors found in RCW 36.70A.020, a portion
17 of the Growth Management Act.

18 16. Vince Panesko timely petitioned this Board for relief. Vince Panesko
19 claimed errors in the comprehensive plan amendment and requested
20 that the Board declare Ordinance 47-05 invalid.

21 **VI. CONCLUSIONS OF LAW**

- 22 1. This Board has jurisdiction over the parties to this action.
- 23 2. This Board has jurisdiction over the subject matter of this action.
- 24 3. Petitioners have standing to raise the issues listed in the Prehearing
25 Order.
- 26 4. The Petition for Review in this case was timely filed.

1 5. The Growth Management Act and RCW 36.70A.130 contemplates that a
2 city will periodically review, evaluate, and amend its comprehensive
3 plan.

4 6. Vince Panesko has not met his burden of showing that Richland is in
5 non-compliance with the Growth Management Act by reason of the
6 city's adoption of Ordinance 47-05.

7 7. Vince Panesko has not met his burden to have Richland City Ordinance
8 47-05 declared invalid under the Growth Management Act.

8 VIII. ORDER

9 1. The Board finds that the Petitioner has failed to carry his burden of
10 proof on all issues and the City of Richland's Ordinance 47-05 is not
11 found out of compliance with the Growth Management Act.

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

13 **Reconsideration:**

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

23 **Judicial Review:**

24 **Any party aggrieved by a final decision of the Board may appeal the decision to**
25 **superior court as provided by RCW 36.70A.300(5). Proceedings for judicial**

1 review may be instituted by filing a petition in superior court according to the
2 procedures specified in chapter 34.05 RCW, Part V, Judicial Review and Civil.

3 **Enforcement:**

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

9 **Service:**

10 This Order was served on you the day it was deposited in the United States mail.
11 RCW 34.05.010(19)

12 SO ORDERED this 19th day of July 2006.

13 EASTERN WASHINGTON GROWTH MANAGEMENT
14 HEARINGS BOARD

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16 _____
17 Judy Wall, Board Member

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19 _____
20 Dennis Dellwo, Board Member

20 **DISSENT ANALYSIS**

21 The Petitioner, Mr. Vince Panesko, argued during the Hearing on the Merits that the
22 County mislead, not only the Planning Commission, the Parks and Recreation Board, and
23 the Economic Development Council, but the citizens of Benton County with the staff review
24 of Goal No. 9 under the City of Richland's Planning Goals.

1 Goal No. 9: Open Space, states the "City should encourage the retention of open
2 space and development of recreational opportunities, conserve fish and wildlife habitat,
3 increase access to natural resource lands, and water, and develop parks."

4 Under their review, staff concluded the following:

5 The comprehensive plan map amendment does not encroach on nor impact
6 any of the currently established open space, recreational lands, fish and
7 wildlife habitat, natural resource lands or parks. The amendment simply seeks
8 to change the land use designation for a portion of an inner-city parcel from
9 Developed Open Space to Waterfront in the Columbia Point Marina Park.

10 The staff review is clearly erroneous. The 1.1 acres of public open space and
11 recreation land to be leased to a private developer for a restaurant is clearly "encroached"
12 upon and removes "recreational opportunities" and "access to natural resource lands". This
13 important staff review of Goal No. 9 is blatantly false and certainly may have led to a
14 perception by decision makers that the amendment would not affect the current public
15 access or the retention of open space on the Columbia River. Equally disturbing, any citizen
16 who monitors the City of Richland's Comprehensive Plan amendment process would not
17 have recognized a potential problem given the misinformation provided by the jurisdiction
18 and therefore would not have reacted to the amendment.

19 RCW 36.70A.140 specifically requires public participation. This is one of the
20 cornerstones of the Growth Management Act.

21 Each county and city that is required or chooses to plan under RCW
22 36.70A.040 shall establish and broadly disseminate to the public a public
23 participation program identifying procedures providing for early and
24 continuous public participation in the development and amendment of
25 comprehensive land use plans and development regulations implementing
26 such plans.

27 The City of Richland's Section I: Public Participation, in its Goals Analysis encourages
28 public participation and outlines the process followed by the City of Richland to inform the
29 public. Staff review paraphrases RCW 36.70A.140, indicating that the City of Richland has

1 an established public participation program to ensure "early and continuous public
2 participation". Unfortunately, neither the RCW nor Section I mention "accurate" information
3 along with "early and continuous." Without accuracy, the entire public participation
4 mandate is flawed.

5 In addition, Finding No. 32 listed under the "Reclassification of 1.1 Acres from
6 Developed Open Space to Waterfront on Property Located at the Columbia Marina Park
7 (Z2005-108(A)), in Ordinance No. 47-05 makes an undocumented assumption by the City.
8 The City assumes that "approval of the proposed amendment will increase economic
9 development and vitality to the Columbia Point area". No documentation or study in the
10 record confirms this analysis.

11 The Board is required to give deference to counties and cities in their decision
12 making unless a clearly erroneous error is made. Ordinance No. 47-05 passed by the City of
13 Richland City Council on December 11, 2005, was made with misinformation and broad
14 assumptions provided by the City of Richland planning staff. This undermines the process
15 and intent of the GMA. A clearly erroneous error has been made and the decision to adopt
16 Ordinance No. 47-05 by the City is flawed, thus contrary to RCW 36.70A.

17
18 _____
John Roskelley, Board Member