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

WILMA et al.,

Petitioners,

v.

STEVENS COUNTY,

Respondent.

Case No. 06-1-0009c

ORDER GRANTING CTED's MOTION
TO FILE AMICUS CURIAE BRIEF

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I. PROCEDURAL HISTORY

On September 8, 2006, SAUNDRA WILMA and ROBERT BERGER, filed a Petition for Review.

On September 11, 2006, JAMES DAVIES and LARSON BEACH NEIGHBORS and JEANIE WAGENMAN, filed Petitions for Review.

On October 10, 2006, the Board held a telephonic Prehearing conference for Case Nos. 06-1-0007, 06-1-0008, and 06-1-0009 collectively. Present were, John Roskelley, Acting Presiding Officer, Board Members Judy Wall and Dennis Dellwo were unavailable. Present for Petitioners were Sandra Wilma, Robert Berger, James Davies, and Jeanie Wagenman. Present for Respondent was Peter Scott.

1 The Board at the Prehearing conference consolidated Case Nos. 06-1-0007-06-1-
2 0009. The new Case Name and Number is as follows and shall be captioned accordingly:
3 WILMA et al. v. STEVENS COUNTY, 06-1-0009c. The acting Presiding Officer instructed the
4 Petitioners to consolidate the issues and provide the Board and Respondent with copies of
5 consolidated issues by October 16, 2006. The Petitioners advised they were unable to meet
6 the October 16, 2006, deadline for submitting the proposed consolidated issues and would
7 provide the Board and Respondent the issues as soon as possible.

8 On October 24, 2006, the Board received the proposed consolidated issues.

9 On October 25, 2006, the Board asked the Respondent to advise the Board if it
10 objected to the rewritten issues. Mr. Scott on October 31, 2006, filed with the Board
11 Respondent's Objection and Motion for Extension.

12 On October 31, 2006, the Board received Petitioners' Motion to Supplement the
13 Record.

14 On November 1, 2006, the Board issued its Prehearing Order.

15 On November 8, the Board received Respondent's Motion to Dismiss Issue Nos. 11,
16 12, and 13, filed by Petitioner James Davies.

17 On November 15, 2006 the Board received from Petitioner James Davies, Response
18 to Motion to Dismiss, Respondent Stevens County's Response to Motion to Supplement the
19 Record, and Request for Extension.

20 On November 20, 2006, the Board received Respondent's Reply in Support of Motion
21 to Dismiss and Response to Petitioners' Request for Extension.

22 On November 27, 2006, the Board received Larson Beach Neighbors & Jeanie
23 Wagenman's Response to Stevens County's Response to Motion to Supplement Record.

24 On November 27, 2006, the Board held the telephonic motion hearing. Present were,
25 John Roskelley, Presiding Officer, and Board Members Dennis Dellwo and Joyce Mulliken.
26 Present for Petitioners were, Sandra Wilma, James Davies, Larson Beach Neighbors, &
Jeanie Wagenman. Present for Respondent was Peter Scott, Clay White, and the Stevens
County Board of County Commissioners.

1 On December 4, 2006, the Board issued its Order on Motions.

2 On December 18, 2006, the Board received from Stevens County's PUD No. 1 a
3 Request for Permission to File a Motion After the Date Set Forth in the Prehearing Order;
4 and Motion to File Amicus Curiae Brief.

5 On December 20, 2006, the Board issued its Order on Motion to File Amicus Brief.

6 On December 29, 2006, the Board received Petitioners' Wilma et al. Response to
7 Stevens County P.U.D. Request to File Late Motion and Response to PUD Motion to File
8 Amicus Curiae Brief.

9 On January 3, 2007, the Board received CTED's Request for Permission to File a
10 Motion After the Date Set Forth in the Prehearing Order and Motion to File Amicus Brief.

11 On January 4, 2007, the Board issued its Order on Stevens County PUD's Motion to
12 File Amicus Curiae Brief.

13 On January 11, 2007, the Board received Petitioners Larson Beach Neighbors and
14 Jeanie Wagenman's letter expressing concern over CTED's involvement in this matter.

15 II. DISCUSSION

16 The Washington State Department of Community, Trade and Economic Development
17 (CTED) submitted a request for Permission To File A Motion After The Date Set Forth In The
18 Pre-hearing Order in order to file a Motion to File Amicus Curiae Brief in Case No. 06-1-
19 0009c, *Wilma et al., v Stevens County*, on January 3, 2007. Pursuant to WAC 242-02-
20 532(2), "[If] a pre-hearing order or other order has been entered establishing a deadline for
21 filing motions, no written motion may be filed after the date specified in the order without
22 written permission of the board or presiding officer." The Board grants CTED permission to
23 file a motion as requested and will consider this Order as written permission to do so.
24 Further the Board will consider the motion already filed to be a motion seeking permission
25 to file an Amicus Curiae Brief. Nothing further is required to be filed.

26 Pursuant to WAC 242-02-280, "[A]ny person whose interest may be substantially
affected by a proceeding before a board may by motion request status as an amicus in the

1 case." WAC 242-02-280(2) states that a motion to file an amicus curiae brief must include
2 a statement of the applicant's interest and the person or group applicant represents; the
3 applicant's familiarity with the issues involved; the specific issues to which the amicus curiae
4 brief will be directed; and the applicant's reason for believing that additional argument is
5 necessary on these specific issues. CTED has done so in its motion and nothing further is
6 required unless desired.

7 On January 11, 2007, Petitioners Larson Beach Neighbors and Jeanie Wagenman
8 filed a response to CTED's motions. The Petitioners questioned the need for CTEDs
9 involvement on behalf of Stevens County and indicated they had concerns regarding a
10 government entity becoming involved at the appeal level, only addressing three of the
11 issues and their motive for involvement in the case. In addition, the Petitioners question the
12 "duty on the part of CTED or the Attorney Generals office to be 'impartial' in its selection
13 and position in support of Comprehensive planning, or in support of the citizens of
14 Washington State?" The Petitioners also question why CTED would not be concerned with
15 other aspects of Stevens County's GMA planning.

16 After due consideration of the Petitioners arguments, the Board grants CTED's
17 motion to file an amicus curiae brief in this matter. Pursuant to WAC 242-02-280(3), CTED
18 will be allowed to brief Issues 2, 6, and 21 in the Board's Prehearing Order, but using only
19 the exhibits submitted by Stevens County into the record and those supplemental
20 documents submitted by Ms. Wagenman in her letter of December 15, 2006. The
21 Washington State Department of Community, Trade and Economic Development will
22 participate as amicus curiae only.

23 **III. ORDER**

24 CTED is allowed to file an amicus brief in this matter. The Hearing on the Merits date
25 is **February 7, 2007, at 10:00 a.m., 215 S. Oak Street, Colville, Washington.**
26 Respondent's hearing on the merits brief and exhibits are due **January 17, 2007.**

1 Petitioners' optional hearing on the merits reply brief is due **January 31, 2007**. The Final
2 Decision and Order will be issued on **March 12, 2007**.

3 **SO ORDERED** this 12th day of January 2007.

4 EASTERN WASHINGTON GROWTH MANAGEMENT
5 HEARINGS BOARD

6 _____
7 John Roskelley, Board Member

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9 Dennis Dellwo, Board Member

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11 Joyce Mulliken, Board Member

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