

1 OBCT Request for Reconsideration, December 20, 2004. The County and Cardinal respond that
2 there is no new information being presented in the request for reconsideration and that the application
3 should be presumed to have vested as the County has determined unless and until a court determines
4 otherwise. Company's Joint Response to OBCT's Request for Reconsideration, December 22, 2004.

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7 OBCT's Request for Reconsideration is addressed to the Final Decision and Order issued in this case
8 on December 9, 2004. In that decision, Finding of Fact #23 provides:

9 23. Since the County has already accepted and approved the Cardinal FG Company's major
10 industrial development application (approved on September 23, 2004), a finding of
11 invalidity of LCC 17.20.050 at this time would not affect that application.

12 Conclusion of Law #5 provides:

13 5. Petitioners have failed to meet their burden of showing that the amendments to
14 LCC 17.20.050 substantially interfere with fulfillment of the goals of the Growth
15 Management Act, RCW 36.70A.020.
16 Final Decision and Order, December 9, 2004.

17 No information has been presented to indicate that the Board's Finding of Fact #23 is in error. The
18 County approved the Cardinal application in September of 2004. OBCT does not contest this fact but
19 argues that the application has not vested. However, the Board did not find that the application had
20 vested. A determination of vesting is not within the Board's authority. RCW 36.70A.300(3).
21 Instead, the Board found that the County has accepted and approved the application and a finding of
22 invalidity at this time would not affect that application. The Board further concluded that the
23 petitioners had not met their burden of proof in showing substantial interference with the goals of the
24 GMA. (Conclusion of Law #5)

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27 OBCT essentially asks the Board to enter a finding of invalidity because a court could determine that
28 the Cardinal application has not vested. The challenged finding does not purport to determine
29 whether the application has vested and we decline to alter our findings based on the speculative
30 outcome of an OBCT appeal to court.
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ORDER

OBCT's request for reconsideration is hereby DENIED.

Entered this 30th day of December 2004.

WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD

Margery Hite, Presiding Officer

Holly Gadbow, Board Member

Gayle Rothrock, Board Member