

1 BEFORE THE WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD

2
3 FRIENDS OF SAN JUANS, LYNN BAHRYCH and
4 JOE SYMONS,

No. 03-2-0003c

5
6 Petitioners,

ORDER LIFTING INVALIDITY

7 v.

8 SAN JUAN COUNTY,

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10 Respondent.

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12 This matter comes to the Board on San Juan County's motion for a rescission of invalidity
13 and a finding of compliance for Ordinance 7-2006 received by the Board on June 21, 2006.
14 Compliance Report and Motion to Rescind Invalidity. Ordinance 7-2006 adopts measures
15 that strictly limit the number of permits that can be issued for detached accessory dwelling
16 units (ADUs) annually. These measures cause San Juan County's regulations for detached
17 ADUs to no longer substantially interfere with the Growth Management Act's (GMA) Goal 2
18 to reduce sprawl and Goal 8 to conserve resource lands of long-term commercial
19 significance. The Board will issue an order dealing with the compliance of Ordinance 7-
20 2006 subsequently.
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23 **I. RELEVANT PROCEDURAL HISTORY**

24 See Appendix A.
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27 **II. BURDEN OF PROOF FOR INVALIDITY FINDINGS**

28 For purposes of determining whether to rescind a prior invalidity finding, the burden is on
29 San Juan County to show that the new adoption no longer interferes with the goals of the
30 GMA:
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1 A county or city subject to a determination of invalidity made under RCW [36.70A.300](#) or
2 [36.70A.302](#) has the burden of demonstrating that the ordinance or resolution it has
3 enacted in response to the determination of invalidity will no longer substantially interfere
4 with the fulfillment of the goals of this chapter under the standard in RCW [36.70A.302](#)(1).
RCW 36.70A.320.

6 III. ISSUE

7 *Does the action that the County has taken to achieve compliance with the Board's*
8 *April 17, 2003 Final Decision and Order/Compliance Order that found the County's*
9 *regulations that allow for a freestanding accessory dwelling unit (ADU) on single-*
10 *family lots with a principal residence in rural lands and resource lands, without*
11 *counting it as a unit of density for the purpose of calculating the underlying density,*
12 *cause the County's regulations for regulating freestanding accessory dwelling units*
13 *no longer substantially interfere with the goals of the Growth Management Act? See*
14 *Corrected Final Decision and Order (April 17, 2003)?¹*

17 IV. DISCUSSION

18 Positions of the Parties

19 **County's and Petitioners' Position**

20 San Juan County argues that the Ordinance now complies and does not interfere with the
21 Growth Management Act and the Board's April 17, 2003 Corrected Final Decision and
22 Order. The County declares that it strictly limits the number of permits in a given year.
23 Ordinance 7-2006 (Ordinance) limits the number of permits each year for detached ADUs to
24 no more than 12 percent of the total permits for new principal residences issued in the
25 previous year. Two percent of these possible permits are reserved for the conversion of
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31 ¹ This description of the April 17, 2003 Final Decision and Order reflects the January 9, 2004, Thurston
32 County Superior Court decision that upheld the Board in regard to density requirements for accessory dwelling
units in resource and rural lands, but overturned the Board's decision on requirements for location and
occupancy requirements in resource lands.

1 existing structure accessory to a principal residence to an ADU. No assigned permits can
2 be carried over to another year.²

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4 Other limitations on ADUs the County cites include prohibiting ADUs in Conservancy, Rural
5 Commercial, and Industrial Districts; limiting ADUs to parcels of one acre, except in
6 Shoreline Districts where ADUs are limited to parcels of five acres; limiting ADUs' size and
7 height; and requiring the ADU to avoid sensitive features of sites, to be located within 150
8 feet of the principal residence, and to share utilities and driveways.³

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11 The County also contends that the Ordinance addresses affordable housing by allowing a
12 limited number in rural lands, restricting the use of ADUs as short term vacation rentals, and
13 setting aside a certain number of permits for conversions of existing accessory structures to
14 ADUs.

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17 This case's original Petitioners support a finding of compliance and a lifting of invalidity.
18 They assert that the County counts ADUs as a unit of underlying density with very limited
19 exceptions. They also point out that this Board found the County's allowance of ADUs at
20 more than the underlying density in the Eagle Lake Development compliant⁴ when the
21 County required placement of the ADU within 100 feet of the principal residence.⁵
22 Petitioners and the County also argue that although new participants have raised a number
23 of issues outside the sole invalidity issue, it should not affect the Board's decision about
24 invalidity or compliance in this case. Petitioners offer the Board two scenarios: (1) the
25 Board can lift invalidity and find compliance, and if a petition is filed, can take appropriate
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29 ² San Juan County's Response to Objections to Compliance Finding at 2 and 3.

30 ³ Ibid at 3.

31 ⁴ Town of Friday Harbor, Fred R. Klein, John M. Campbell, and Lynn Bahrych v. San Juan County, WWGMHB Case No.
32 99-2-0010c and Michael Durland v. San Juan County, WWGMHB Case No. 00-2-0062c, Final Order Partially
Rescinding Invalidity (April 18, 2001).

⁵ Petitioners' Response to Objections and Brief in Support of Lifting Invalidity at 3 and 4.

1 action afterwards, or (2) the Board can facially review the Ordinance and determine
2 invalidity no longer applies, then objectors will carry the burden of proving that the ordinance
3 does not comply with the GMA. Ibid at 6 and 7. San Juan County's Response to
4 Objections to Compliance Finding at 4 and 5.
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6 **Participants Objections**

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8 Participants recently added to this case offer the following objections to a finding of
9 compliance:

- 10 • The Ordinance allows ADUs on lots of less than 10 acres in rural lands in violation of
11 the Board's April 17, 2003 order. These participants also argue that the Ordinance
12 continues to substantially interfere with RCW 36.70A.020 (2) and (8).⁶
- 13 • The adoption of the Ordinance violated the GMA's procedural regulations.⁷
- 14 • The changes went beyond what was necessary to comply with the Board's April 17,
15 2003 Corrected Final Decision and Order.⁸
- 16 • The Ordinance interferes with County agreements with public utility districts and the
17 County's comprehensive plan.⁹
- 18 • The Ordinance did not show how the County balanced the goals of the GMA,
19 particularly because it did not show how it would integrate Goal 4 into the
20 ordinance.¹⁰
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25 ⁶ Stephen Ludwig's and Dorothy Austin's Participant's Objections to a Finding of Compliance at 1, Timothy Blanchard
26 and Margaret Manning's Opposition to Compliance Report and Motion to Lift Invalidity Filed by San Juan County, and
27 Objection to Finding Compliance at 1 and 2, Douglas Marshall's Objection to Finding of Compliance and Motion to
28 Supplement the Record at 3, James Nelson's Objection to Finding of Compliance and Motion to Supplement the Record
29 at 6.

30 ⁷ James Nelson's Objection to Finding of Compliance and Motion to Supplement the Record at 2, 11-13, Ralph
31 Gutschmidt's Objection to Finding of Compliance and Motion to Supplement the Record at 2, and Ri Warren's Objection
32 to Finding Compliance and Motion to Supplement the Record at 3.

⁸ John Evans' Objection to Finding of Compliance and Motion to Supplement the Record at 3, Ralph Gutschmidt's
Objections to Finding of Compliance and Motion to Supplement the Record at 2, James Nelson's Objection to Finding of
Compliance and Motion to Supplement the Record at 2.

⁹ John Evans' Objection to Finding Compliance and Motion to Supplement the Record at 2 and Ri Warren's Objection to
Finding of Compliance and Motion to Supplement the Record at 4, 5.

¹⁰ Douglas Marshall's Objection to Finding of Compliance and Motion to Supplement the Record at 4 – 6.

- 1 • The Ordinance did not balance Goal 4, encouragement of housing for all economic
2 segments, and Goal 6, protection of private property rights, with Goals 2, sprawl
3 reduction, and Goal 9, preservation of open space.¹¹
- 4 • The ordinance assumes the original growth plan was flawed and now assigns
5 housing units to the rural and resource lands.¹²
- 6 • The County made a mistake when the Ordinance applies the provisions for
7 minimizing ADUs impact on rural lands to ADUs in urban areas.¹³
- 8 • By not allowing ADUs to be attached to accessory dwellings like garages or barns, or
9 allowing these structures to be converted detached ADUs, the County encourages
10 bigger houses with attached or internal ADUs or more structures that interfere with
11 rural character.¹⁴
- 12 • The conditions for permitting ADUs are so onerous that only wealthy people will be
13 able to afford permits for ADUs. This provision substantially interferes with Goal 4,
14 the GMA's housing goal.¹⁵

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18 Board Discussion

19 RCW 36.70A.302(1)(b) gives authority to Growth Management Hearings Boards to issue an
20 order of invalidity if the Board supports with findings of fact and conclusions of law that the
21 continued validity of part or parts of a plan or regulation interfere with the fulfillment of the
22 goals of the GMA. In other words, a determination of invalidity means that the continued
23 implementation of specified plans, plan policies, and regulations threatens the County's
24 future ability to adopt planning legislation which complies with the Act. *WEAN v. Island*
25 *County*, WWGMB 95-2-0063 (Compliance Order, April 10, 1996).
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31 ¹¹ Ri Warren's Objection to Finding of Compliance and Motion to Supplement the Record at 3.

32 ¹² Ibid at 5.

¹³ Ibid at 6

¹⁴ Ibid at 9 and James Nelson's Objection to Finding of Compliance and Motion to Supplement the Record at 7.

¹⁵ Ri Warren's Objection to Finding of Compliance and Motion to Supplement the Record at 2.

1 In the April 17, 2003 Corrected Final Decision and Order, the Board found that the County's
2 regulations for freestanding, now called "detached" ADUs in Ordinance 7-2006, did not
3 comply and substantially interfered with RCW 36.70A.020(2), the GMA's sprawl reduction
4 goal, and with RCW 36.70A.020(8), the resource land conservation goal. The Board
5 reasoned that allowing an ADU of up to 1000 square feet with a principal residence would
6 create a density of more than one unit per five acres in rural lands (the maximum allowed
7 density in rural lands), and a density more than one unit per 10 acres in agricultural lands
8 (the maximum allowed density in agricultural lands), and one unit per 20 acres in forest
9 lands (the maximum allowed density in forest lands).
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12 Pursuant to RCW 36.70A.302(6), a county or city subject to a determination of invalidity may
13 file a motion requesting that the board clarify, modify or rescind the order. San Juan County
14 requested an expedited hearing to consider its request that the Board rescind its invalidity
15 determination on June 21, 2006. A hearing was held on July 21, 2006 in which both
16 invalidity and compliance issues were argued.
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19 The original Petitioners to this case support the County's position. However, some new
20 participants have raised objections to a finding that Ordinance 7-2006 complies with the
21 GMA requirements for appropriate rural and resource land residential densities. Most of
22 the other objections include issues outside the scope of the compliance order. For the
23 Board to consider many of the new issues raised, including the issues regarding compliance
24 with the affordable housing, the Shoreline Management Act, and public participation goals
25 of the GMA, those issues must be raised in a new petition for review pursuant to RCW
26 36.70A.290. The participants have now filed new petitions for review of Ordinance 7-2006.
27 We will consider the issues raised in the new petitions at the same time that we determine
28 whether the County's new ordinance has achieved compliance as directed in the April 17,
29 2003 order.
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1 However, the question of whether Ordinance 7-2006 removes substantial interference with
2 the goals of the GMA upon which the invalidity determination was based does not depend
3 upon the compliance challenges. Further, to comply with the statutory timelines for decision
4 on invalidity, this Board must rule on the County's motion within 30 days of the hearing. See
5 RCW 36.70A.302(6).
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8 We have held that invalidity should be imposed if continued validity of the noncompliant
9 comprehensive plan provisions or development regulations would substantially interfere with
10 the local jurisdiction's ability to engage in GMA-compliant planning. See *Vinatieri v. Lewis*
11 *County*, WWGMHB Case No. 03-2-0020c and *Irondale Community Action Neighbors v.*
12 *Jefferson County*, WWGMHB Case No. 04-2-0011, as examples. Here, Ordinance 7-2006
13 allows only a small number of detached ADUs to be built in any given year. With those
14 limited numbers, we find that the continued validity of Ordinance 7-2006 will not
15 substantially interfere with the County's ability to properly plan, even if Ordinance 7-2006 is
16 subsequently found to be noncompliant. We find that the County has removed substantial
17 interference with RCW 36.70A.020(2) and (8) by establishing strict limitations on the
18 number of permits for detached ADUs in a given year. These limitations include limiting the
19 number of permits each year for detached ADUs to no more than 12 percent of the total
20 permits for principal residences issued in the previous year, and requiring that no assigned
21 permits can be carried over to another year.
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25 **Conclusion:** With the enactment and enforcement of Ordinance 7-2006, we find that there
26 is no longer a concern that rights will vest in the challenged provisions to a degree that will
27 prevent proper planning in San Juan County's rural and resource areas. We find that the
28 amendments made to the San Juan County Code, specifically SJMC 18.40.240 G (1)(b), by
29 the adoption of Ordinance 7-2006 remove the substantial interference of San Juan County's
30 regulations for detached ADUs with Goals 2 and 8 of the GMA. RCW 36.70A.020(2) and
31 (8).
32

FINDINGS OF FACT

- 1. San Juan County is located west of the Cascade Mountains and is required to plan pursuant to RCW 36.70A.040.
- 2. Petitioners and Participants participated in the proceedings to adopt Ordinance 7-2006.
- 3. San Juan County adopted Ordinance 7-2006 on June 8, 2006.
- 4. San Juan County filed a motion to rescind invalidity and find compliance with the GMA and the Board’s April 17, 2003 Corrected Final Decision and Order on June 21, 2006.
- 5. The Board held a compliance hearing on July 21, 2006 and heard arguments for and against rescinding invalidity and finding compliance.
- 6. Ordinance 7-2006 amends the San Juan County code to limit the number of building permits for detached ADUs to 12 percent of the permits for new principal residences outside of activity centers and urban growth areas in the previous year. SJC 18.40.240 G (1)(b).
- 7. Ordinance 7-2006 amends the San Juan County code to ensure that no unassigned ADU permits will carry forward to the next year. SJC 18.40.240 G (1)(b).

IV. CONCLUSIONS OF LAW

- A. This Board has jurisdiction over the parties and subject matter of the issues related to the enactment of Ordinance 7-2006 as a compliance effort on the part of the County.
- B. Petitioners and Participants have standing to bring their claims and raised them in a timely manner.
- C. San Juan County’s enactment of Ordinance 7-2006, amending San Juan County Code Section 18.40.240 (G)(1)(b), no longer substantially interferes with RCW 36.70A.020(2) and (8) as found by the Board in its April 17, 2003 Corrected Final Decision and Order

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V. ORDER

Based upon review of the County's request for an expedited hearing to consider lifting invalidity and its supporting briefs, the brief submitted by Petitioners and Participants, the arguments of the parties at the compliance hearing, and the files and records herein, the Board finds that the adoption of Ordinance 7-2006 removes substantial interference found in this case with respect to Goals 2 and 8 of the GMA. The determination of invalidity previously imposed upon the County's development regulations allowing detached ADUs in rural and resource lands is hereby **RESCINDED**.

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

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

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

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

1 **Service. This Order was served on you the day it was deposited in the United States**
2 **mail. RCW 34.05.010(19)**

3 So ordered this 18th day of August, 2006.
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6 _____
7 Holly Gadbaw, Board Member
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10 Gayle Rothrock, Board Member
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13 Margery Hite, Board Member
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15 **Appendix A**

16 On November 30, 2000, the Board found that the provisions of the County's 2000
17 comprehensive plan amendments that allowed for new guest house construction in rural
18 and resources lands failed to comply with the GMA and were invalid because the analysis of
19 the impacts of detached accessory dwelling units (ADUs) continued to be inadequate.
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21 *Town of Friday Harbor, Fred R. Klein, John M. Campbell, and Lynn Bahrych, et al. v. San*
22 *Juan County, WWGMHB Case No. 99-2-0010c (Final Decision and Order, November 30,*
23 *2000).*
24

25 On April 6, 2001, the Board issued an order clarifying the application of its imposition of
26 invalidity in the November 30, 2000, Final Decision and Order. *Town of Friday Harbor, Fred*
27 *R. Klein, John M. Campbell, and Lynn Bahrych, et al. v. San Juan County, WWGMHB Case*
28 *No. 99-2-0010c (Order Clarifying Invalidity, April 6, 2001).* In that clarifying order the Board
29 said:
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31 [w]e answer the County's question of whether the determination of invalidity also
32 prohibits the issuance of a building permit for the construction of a principle (sic)

1 residence if the property owners have previously constructed a guest house on the
2 property in the negative. However, the previously constructed or permit- vested
3 "guest house" must meet the definition of SCC 18.40.240. Otherwise the second
4 residence would fall within the determination of invalidity issued on November 30,
2000.

5 *Town of Friday Harbor, Fred R. Klein, John M. Campbell, and Lynn Bahrych, et al. v. San*
6 *Juan County*, WWGMHB Case No. 99-2-0010c, (Order Clarifying Invalidity, April 6, 2001)
7 at 3.

8 On December 3, 2002, the County adopted Ordinance 21-2002, which amended the
9 regulations for the construction of ADUs, and Resolution 120-2002, which adopted
10 monitoring of the construction of new ADUs. Notice of adoption of these ordinances was
11 published on December 11, 2002.

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13 On December 19, 2002, the Board received a motion from the County to rescind its findings
14 of invalidity for the construction of ADUs in rural and resource lands and find that the
15 recently adopted amendments to the UDC and the SMP regulating ADUs comply with the
16 GMA.

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19 On February 7, 2003, the Board received a Petition for Review from Friends of San Juans,
20 Lynn Bahrych, and Joe Symons challenging Ordinance 21-2002 that adopted amendments
21 to the regulations for the construction of ADUs.

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24 On February 25, 2003, Petitioners and the County stipulated to a consolidation of Case No.
25 03-2-0003 with Case Nos. 99-2-0010c and 00-2-0062c. This case became WWGMHB Case
26 No. 03-20003c.

27
28 In its final decision and order on the consolidated case, the Board found the County's
29 regulations that allowed freestanding accessory dwelling units (ADUs) in rural and resource
30 lands to be noncompliant and invalid. *Friends of San Juans, et al. v. San Juan County*,
31 WWGMHB Case No. 03-2-0003c (Corrected Final Decision and Order, April 17, 2003).
32

1 Both the County and Petitioners appealed this decision, which was heard in Thurston
2 County Superior Court.

3 On October 7, 2003, the Board divided the issues in the consolidated case, Friends of San
4 Juans v. San Juan County, WWGMHB Case No. 03-2-0003c, because the issues
5 consolidated in these cases were on two different compliance schedules. The issues
6 regarding ADUs remained in Case No. 03-2-0003c.¹⁶ The issues regarding the designation
7 of urban growth areas (UGAs) for Lopez Village and Eastsound were kept in their original
8 case, *Michael Durland v. San Juan County*, WWGMHB Case No. 00-2-0062c. That case is
9 being heard with *Fred Klein v. San Juan County*, WWGMHB Case No. 02-2-0008.
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12 On October 31, 2003, the Board granted the County an extension of time to achieve
13 compliance because the County was pursuing its appeal in a timely way and had submitted
14 a signed declaration stating that it was not issuing any permits for freestanding ADUs in
15 rural and resource lands that did not comport with the Board's decision.
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18 On January 9, 2004, the Thurston County Superior Court issued a decision that upheld the
19 Board's decision on density requirements for freestanding ADUs in rural and resource
20 lands.¹⁷
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22 On January 30, 2004, the County submitted a progress report to the Board. The report
23 stated that the County has appealed the superior court decision and that the County is not
24 accepting any applications for freestanding ADUs that do not conform to the Board's April
25 17, 2003, decision as modified by the superior court decision.
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30 ¹⁶ ADU issues were originally heard in *Town of Friday Harbor, Fred R. Klein, John M. Campbell, and Lynn*
31 *Bahrych, et al. v. San Juan County*, WWGMHB Case No. 99-2-0010c.

32 ¹⁷ However, the superior court ruled that the occupants of ADUs in resource lands did not have to be limited to family members or farm workers as required by the Board's decision and upheld the County's siting requirements.

1 A telephonic hearing was held on May 21, 2004. After the compliance hearing, the County
2 participated in two mediation sessions with Petitioners. Neither of these mediation sessions
3 was successful in resolving the issues. The County requested in its June 21, 2004, letter
4 that the Board exercise its discretion and not issue an order until the appellate court issues
5 its decision.
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8 On June 30, 2004, the Board issued an order finding continuing noncompliance and
9 invalidity and ordering the County to take official action to comply with the Board's April 17,
10 2003, order and to notify the public of that action.
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12 On July 9, 2004, the Board received Petitioners' Motion for Clarification or Reconsideration.
13 Petitioners alleged that the County is permitting a second single-family residence on lots in
14 rural and resource lands that contain a single family dwelling unit of 1000 square feet or
15 less. Therefore, Petitioners asked the Board to:
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17 (1) direct the County immediately to discontinue its policy of permitting a second
18 single-family dwelling unit on all lands with existing dwelling units smaller than 1000 square
19 feet, and
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21 (2) direct the County to amend its ordinance within a specific time period to bring its
22 ordinances and policies into compliance with the GMA.
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24 On December 3, 2004, the Board found that Ordinance 21-2002 had not been amended
25 and that the Board could no longer accept, pending resolution of the County's appeal to the
26 courts, the County's "practice" of not issuing building permits that did not conform to the
27 Board's order as interim compliance in lieu of amending its ordinance because now
28 Petitioners dispute whether the County in fact is complying with this order when issuing
29 building permits for ADUs. Order on Issues for Reconsideration (December 3, 2004).
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31 Therefore, the Board found Ordinance 21-2002 in continuing noncompliance and invalidity
32 and ordered the County to bring that ordinance into compliance within 120 days. *Ibid.*

1 The County adopted Ordinance 3-2005 on April 14, 2005. After receiving the required
2 compliance report, and timely briefings and holding a telephonic hearing, the Board issued
3 an order that found because Ordinance 3-2005 was an interim ordinance, it could not find
4 compliance. Further, the Board found that this ordinance did not cure invalidity of the
5 County's regulations for detached ADUs because the regulations adopted by this ordinance
6 did not restrict ADUs in resource lands to the underlying density. Compliance Order(2005)
7 (July 21, 2005).
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10 On September 15, 2005, the Board received the County's motion to amend the compliance
11 schedule followed by a response from the Petitioners in support of amending the schedule.
12 The parties had jointly filed a motion with the Court of Appeals to stay the issuance of a
13 decision of the County's appeal of the Thurston County Superior Court's decision in this
14 case in order to craft regulations for detached ADUs acceptable to both parties. On
15 September 29, 2005, the Board issued an order amending the compliance schedule. Order
16 Granting Extension (September 2005).
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19 On March 3, 2005 the County requested another extension, supported by the Petitioners to
20 complete the public participation process. The Board granted this extension on March 23,
21 2006. Order Granting Extension (March 2006). The County asked for a 60 day extension
22 of the compliance deadline on May 10, 2006 in order to have a second public hearing on
23 changes the county council has made to the planning commission draft. Petitioners
24 objected to a 60 day extension. Later, in a conference with Petitioners, the County, and the
25 Presiding Officer, the Petitioners and the County agreed to an expedited compliance
26 schedule. On May 25, 2006, the Board issued an order that extended the compliance
27 period to June 14, 2006 and scheduled a compliance hearing for June 30, 2006. Order
28 Extending the Compliance Period (May 2006).
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1 In response to Stephen Ludwig's May 24, 2006 request to intervene, the Board issued an
2 order on June 13, 2006 adding Mr. Ludwig as a participant.

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4 After the May 25, 2006, Order Extending the Compliance Period, the Board received
5 numerous letters objecting to the expedited compliance schedule and requests to become
6 participants in the compliance proceedings. In response the Board held a compliance
7 prehearing conference on June 13, 2006 with the County, original petitioners, and parties
8 requesting to be added as participants. On June 21, 2006, the Board issued an order
9 rescheduling the compliance hearing to July 21, 2006 and issued a new briefing schedule.
10 The order also added the following people to the case as participants: Dorothy Austin,
11 Thomas Baldwin, Miriam M. Ziegler, Howard Tollefson, John B. Evans, Wanda Evans, Ri
12 Warren, James E. Nelson, Timothy P. Blanchard, Margaret Manning, Donna Gavora, Jay
13 Kimball, Brian Wiese, Margot Shaw and Doug Marshall. Order Rescheduling the
14 Compliance Hearing and Adding Parties. Later, on June 30, 2006, the Board added Ralph
15 Gutschmidt as a party and on July 12, 2006, Fred Munder.

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19 Also, on June 21, 2006, San Juan County filed its compliance report and a motion to rescind
20 invalidity. Compliance Report and Motion to Rescind Invalidity.
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23 On July 28, 2006, the Board received Request for Reconsideration and Motion to
24 Reschedule Deadline for Parties to Submit Objections to a Finding of Compliance and
25 Motions to Supplement the Record from James Nelson, and a motion making the same
26 requests from Margaret Manning and Timothy Blanchard on June 30, 2006. Douglas
27 Marshall filed Motion for Reconsideration of Scope, and Motion for Extension of Deadlines
28 on June 29, 2006. On July 3, 2006, the Board issued Order Denying Motions and
29 Requests to Reschedule the Compliance Hearing, Readjust the Compliance Schedule, and
30 Broaden the Compliance Hearing.
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1 Stephen Ludwig filed objections to a finding of compliance on June 27, 2006. The following
2 participants filed written objections to a finding of compliance and motions to supplement
3 the record on July 6, 2006: Margaret Manning, Douglas Marshall, James Nelson, John
4 Evans, and Wanda Evans. Dorothy Austin also filed objections to a finding of compliance
5 on that date. Thomas Baldwin and Miriam Ziegler filed objections and a motion to
6 supplement the record on July 10, 2006.
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9 On July 17, 2006, the County filed San Juan County's Response to Objections to
10 Compliance Finding and Petitioners filed Petitioners' Response to Objections and Brief in
11 Support of Lifting Invalidity and Opposition to Motions to Supplement the Record.
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13 The Board held a compliance hearing in Anacortes on July 21, 2006. Cameron Carter
14 represented San Juan County; Lynn Bahrych and David Mann represented Petitioners.
15 James Nelson, Douglas Marshall, John Evans, Timothy Baldwin, Fred Munder, Stephen
16 Ludwig, Ri Warren, and Ralph Gutschmidt spoke in opposition to a finding of compliance
17 and lifting invalidity. All three Board members attended.
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