

1 BEFORE THE WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD

2  
3 John Campbell,

4 Petitioner,

5  
6 v.

7 San Juan County,

8  
9 Respondent.

Case No. 08-2-0006

**ORDER DISMISSING ISSUES, FINDING  
NONCOMPLIANCE, AND SETTING A  
COMPLIANCE SCHEDULE**

10  
11 **I. SYNOPSIS OF THE DECISION**

12 This Matter comes to the Board on the Stipulation and Agreed Compliance Schedule  
13 submitted by San Juan County and John Campbell on February 26, 2008. In this  
14 stipulation, John Campbell withdraws that portion of his petition that pertains to the  
15 boundaries of the unincorporated urban growth area adjacent to the Town of Friday Harbor  
16 established in San Juan County Ordinance No. 47-2007. <sup>1</sup> The County also concedes that  
17 it has not conducted its review of the Land Use and Housing Elements of its comprehensive  
18 plan pursuant to RCW 36.70A.130 and asks that the Board find that this is a case of  
19 unusual scope and complexity and to set a compliance due date of December 31, 2008. <sup>2</sup>  
20 This order dismisses the issues related to Friday Harbor and finds that the County's failure  
21 to review and revise its comprehensive plan's Land Use and Housing Elements does not  
22 comply with RCW 36.70A.130(1) and (4).  
23  
24  
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26 **II. PROCEDURAL HISTORY**

27 John Campbell filed a Petition for Review in this case on January 21, 2008. On January 31,  
28 2008, the Board issued a Preliminary Notice and Schedule.  
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30  
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32

<sup>1</sup>Stipulation and Agreed Upon Compliance Schedule at 1.

<sup>2</sup>Ibid.

1 A prehearing conference was held on February 8, 2008. John Campbell represented  
2 himself. Deputy Prosecutor John Cain represented San Juan County. Board Member Holly  
3 Gadbow presided. At the Prehearing Conference, the parties agreed that the possibility of  
4 settlement existed.

5  
6 On February 26, 2008, Petitioner and the County submitted a Stipulation and Agreed  
7 Compliance Schedule.  
8

### 9 **III. ISSUES TO BE DISCUSSED**

- 10 A. Should the issues related to Friday Harbor in John Campbell's petition be  
11 dismissed?  
12  
13 B. Has the County failed to review and revise, if necessary, its comprehensive plan's  
14 Land Use and Housing Elements in accordance with RCW 36.70A. 130?  
15

### 16 **IV. DISCUSSION**

#### 17 Withdrawal of Issues Pertaining to Friday Harbor

18 WAC 242-02-720 states that an action may be dismissed by a board:

19  
20 (1) When all parties stipulate;

21  
22 (2) Upon motion of the petitioner or respondent prior to the presentation of the  
23 respondent's case;

24  
25 (3) Upon motion by the respondent alleging that the petitioner has failed to  
26 prosecute the case, failed to comply with these rules, or failed to follow any order of  
27 the board; or

28 (4) Upon a board's own motion for failure by the parties to comply with these rules  
29 or any order of the board.

30 Here the Petitioner has withdrawn the portion of his petition that pertains to the  
31 unincorporated urban growth area of the Town of Friday Harbor established by Ordinance  
32 No. 47-2007.

1 **Conclusion:** Therefore, pursuant to WAC 242-02-720(2), it is appropriate that Issues  
2 pertaining to Friday Harbor are dismissed.

3  
4 Failure to Review the County's comprehensive plan's Land Use and Housing Elements

5 San Juan County concedes that it has not reviewed its comprehensive plan's Land Use and  
6 Housing Elements, and therefore is not in compliance with RCW 36.70A.130. The County  
7 commits to completing this by no later than December 31, 2008, and will consider RCW  
8 36.70A.070 (1) and (2), RCW 36.70A.100, RCW 36.70A.020(2) , and RCW 36.70A.110(2)  
9 as it conducts its review.

10  
11 RCW 36.70A.130(1) requires (in pertinent part):

12  
13 Each comprehensive land use plan and development regulations shall be subject to  
14 continuing review and evaluation by the county or city that adopted them. Except as  
15 otherwise provided, a county or city shall take legislative action to review and, if  
16 needed, revise its comprehensive land use plan and development regulations to  
17 ensure the plan and regulations comply with the requirements of this chapter  
18 according to the time periods specified in subsection (4) of this section.

19 RCW 36.70A.130(1)

20 RCW 36.70A.130(4) establishes the deadline for San County to complete its review as  
21 December 1, 2005.

22 **Conclusion:** Therefore, because San Juan County has not completed the review of its  
23 comprehensive plan required by the deadline established by the Growth Management Act,  
24 this failure does not comply with RCW 36.70A.130(1) and (4).

25  
26 Request for Compliance Schedule of More than 180 Days

27 The County asserts that the task of completing the Land Use and Housing Elements of its  
28 comprehensive plan is a case of unusual scope and complexity and for that reason asks the  
29 Board for more than 180 days to complete this work.

30  
31 RCW 36.70A.300 states (in the pertinent part):

32 In the final order, the board shall either: (a) Find that the state agency, county, or city  
is in compliance with the requirements of this chapter... or (b) Find that the state

1 agency, county, or city is not in compliance with the requirements of this chapter...in  
2 which case the board shall remand the matter to the affected state agency, county, or  
3 city. The board shall specify a reasonable time not in excess of one hundred eighty  
4 days, or such longer period as determined by the board in cases of unusual scope or  
5 complexity, within which the state agency, county, or city shall comply with the  
6 requirements of this chapter.  
RCW 36.70A.300 (3)(a) and (b).

7 The Board notes that San Juan County has missed the deadline for completing its plan by  
8 more than two years. Nevertheless, the Board recognizes that that a review and revision, if  
9 necessary, of the County's Land Use and Housing Elements is a case of unusual scope and  
10 complexity.

11  
12 **Conclusion:** Therefore, based on the unusual scope and complexity of reviewing, and  
13 revising, if necessary the County's comprehensive plan's Land Use and Housing Elements,  
14 the Board grants the County's request for more than 180 days to complete its required  
15 comprehensive plan update, pursuant to RCW 36.70A.300 (3)(b).  
16

## 17 18 V. FINDINGS OF FACT

- 19 1. San Juan County is located west of the crest of the Cascade mountains and is  
20 required to plan pursuant to RCW 36.70A.040.
- 21 2. Petitioner John Campbell has withdrawn the issues related to Friday Harbor in his  
22 Petition for Review.
- 23 3. San Juan County concedes that it has not completed the review, and revision, if  
24 necessary, of its Land Use and Housing Elements, pursuant to RCW 36.70A.130(1).
- 25 4. The deadline established for the review and revision of San Juan County's  
26 comprehensive plan pursuant to RCW 36.70A.130(4) is December 1, 2005.
- 27 5. The review and revision, if necessary, of San Juan County's comprehensive plan's  
28 Land Use and Housing Elements is a case of unusual scope and complexity.
- 29 6. The Board can grant more than 180 days for compliance for cases of unusual scope  
30 and complexity pursuant to RCW 36.70A.300(3)(b).  
31  
32

1 **VI. CONCLUSIONS OF LAW**

2 A. The issues related to Friday Harbor in Petitioner Campbell’s petition for review are  
3 dismissed pursuant to WAC 242-02-720.

4 B. San Juan County’s failure to update its comprehensive plan does not comply with  
5 RCW 36.70A.130(1) and (4).  
6

7 **VII. ORDER**

8 Based on the withdrawal of the issues related to Friday Harbor by John Campbell, the  
9 issues related to Friday Harbor are DISMISSED. Based on the County’s concession that it  
10 has not reviewed and revised, if necessary, its comprehensive plan’s Land Use and  
11 Housing Element pursuant to RCW 36.70A.130 (1) by the required deadline established by  
12 RCW 36.70A.130(4), the Board finds that this failure causes the County not to comply with  
13 RCW 36.70A.130(1) and (4) in regard to its comprehensive plan’s Land Use and Housing  
14 Elements. Further, because the review, and revision, if necessary, required by RCW  
15 36.70A.130 (1) is a case of unusual scope and complexity, the Board will allow San Juan  
16 County to complete the required update of its comprehensive plan’s Land Use and Housing  
17 Elements, according to the following compliance schedule:  
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19

20 Compliance Due	December 31, 2008
21 Compliance Report and Index to the Record Due 22 (County to file and serve on all parties)	January 15, 2009
23 Any Objections to a Finding of Compliance Due	January 29, 2009
24 County’s Response Due	February 19, 2009
25 Compliance Hearing (location to be determined)	February 26, 2009

26  
27 Entered this 10th day of March 2008.

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29 \_\_\_\_\_  
Holly Gadbow, Board Member

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31 \_\_\_\_\_  
James McNamara, Board Member  
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1 Pursuant to RCW 36.70A.300 this is a final order of the Board.

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

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

14 **Enforcement.** The petition for judicial review of this Order shall be filed with the  
15 appropriate court and served on the Board, the Office of the Attorney General, and all  
16 parties within thirty days after service of the final order, as provided in RCW  
17 34.05.542. Service on the Board may be accomplished in person, by fax or by mail,  
18 but service on the Board means **actual receipt of the document at the Board office**  
within thirty days after service of the final order.

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

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