

**CENTRAL PUGET SOUND
GROWTH MANAGEMENT HEARINGS BOARD
STATE OF WASHINGTON**

HAPSMITH, et al.,)	
)	Consolidated
Petitioners,)	Case No. 95-3-0075c
)	
v.)	ORDER OF REMAND PURSUANT
)	TO SUPERIOR COURT
CITY OF AUBURN,)	JUDGMENT IN CASE NO. 97-2-
)	06689-1KNT
Respondent.)	
)	
)	
)	
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)	

I. Procedural Background

On November 13, 1995, the Burlington Northern Santa Fe Railroad (**BNSF**) filed a Petition for Review (the **PFR**) with the Central Puget Sound Growth Management Hearings Board (the **Board**), challenging the City of Auburn’s (the **City**) adoption of a comprehensive plan (the **Plan**) pursuant to the requirements of the Growth Management Act (**GMA** or the **Act**). The PFR was consolidated with an earlier filing by the Hapsmith Company (**Hapsmith**) which also challenged the Plan. The consolidated case was captioned *Hapsmith, et al., v. City of Auburn (Hapsmith)* CPSGMHB Case No. 95-3-0075c.

On May 10, 1996, the Board issued a Final Decision and Order in the consolidated *Hapsmith* case.

On February 13, 1997, the Board issued its “Finding of Non-Compliance and Notice of Second Compliance Hearing” (the **Board’s Finding of Non-Compliance**) in the *Hapsmith* case.

On December 1, 1997, regarding Case No. 97-2-06689-1KNT, King County Superior Court Judge Suzanne Barnett issued a “Judgment Reversing in Part and Remanding in Part the [February 13, 1997] Decision of the Central Puget Sound Growth Management Hearings Board” (the **Judgment**) and “Findings of Fact and Conclusions of Law” (the **Judicial Findings and Conclusions**). The Court reversed the portion of the Board’s Finding of Non-Compliance that upheld Policy CF-62(1) and remanded it to the Board for further action consistent with the Court’s Ruling. Judgment, at 1. In addition, the Court remanded to the Board that portion of the Board’s Finding of Non-Compliance that upheld Policy CF-62(2), for further action consistent

with the Court's Ruling on Policy CF-62(1). Judgment, at 2.

The Court concluded, in part:

15. The Board's decision makes clear that a policy that requires only policy level, rather than site specific, inclusion of EPFs in a state or regional plan would comply with RCW 36.70A.200. However, because amendments to Policy CF-62 must be made by the City and not the Board, the City, upon remand from the Board, may either amend the Comprehensive Plan consistent with the Board's interpretation of RCW 36.70A.200 to bring the existing policy into compliance with the Board's decision, or it may take such other action as would be consistent with the GMA, subject to Board review under the GMA. Judicial Findings and Conclusions, at 8.

II. ORDER

Plan Policies CF-62(1) and (2) are **remanded** to the City with instructions that they be amended to achieve compliance with the Judgment and Judicial Findings. The City shall submit to the Board, with a copy to BNSF, a Statement of Actions Taken to Comply with this Order of Remand, by no later than **4:00 p.m. on Friday, April 10, 1998**. The Board will subsequently schedule a Compliance Hearing and establish a briefing schedule.

So ORDERED this 6th day of January, 1998.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

Edward G. McGuire, AICP
Board Member

Joseph W. Tovar, AICP
Board Member

Chris Smith Towne

Board Member