

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

COPAC-PRESTON MILL, INC., et al.,)	
)	
Petitioners,)	Consolidated Case No. 96-3-0013c
)	
v.)	FINAL DECISION AND ORDER
)	
KING COUNTY,)	
)	
Respondent,)	
)	
and)	
)	
PORT BLAKELY TREE FARMS,)	
)	
Intervenor.)	

I. PROCEDURAL HISTORY

On January 26, 1996, the Central Puget Sound Growth Management Hearings Board (the **Board**) received a Petition for Review from Copac-Preston Mill, Inc. (**COPAC**), challenging King County's (the **County**) amendment of Policy RL-407 of its Comprehensive Plan (the **Plan**), adopted on December 18, 1995. COPAC claimed that the amendment and its manner of adoption do not comply with the Growth Management Act (the **GMA** or the **Act**). The case was assigned number 96-3-0006 and captioned *Copac-Preston Mill, Inc. v. King County*.

On February 6, 1996, the Board issued a Notice of Hearing in the COPAC case, including a tentative schedule for the hearing on the merits on May 22, 1996 with a Final Decision and Order due on July 24, 1996.

On February 7, 1996, COPAC filed a request for mediation with the Board.

On February 23, 1996, Steve Hallstrom (**Hallstrom**) filed a Petition for Review with the Board, assigned CPSGMHB Case No. 96-3-0013. Hallstrom challenged the County's action in amending Policy R-108 of its Plan, claiming that it is not consistent with the King County County-wide Planning Policies (the **CPPs**) as required by the GMA.

On February 28, 1996, the Board held a prehearing conference in the COPAC case at its offices in Seattle, Washington. Board member M. Peter Philley, Presiding Officer in this matter, conducted the hearing. Joel Haggard represented COPAC and H. Kevin Wright represented the County.

At the beginning of the prehearing conference, the County pointed out that the Hallstrom Petition for Review involved the same action, amendments to the Plan, as the COPAC case, although each Petitioner challenged a different amended policy in that Plan. After hearing brief argument on the question of consolidation and over objection of COPAC, the Presiding Officer indicated that the two cases would be consolidated although the legal issues would remain separate.

On February 29, 1996, the Board issued an “Order of Consolidation, Notice of Hearing and Partial Prehearing Order” (the **Consolidation and Partial Prehearing Order**).

On March 13, 1996, Port Blakely Tree Farms (**Port Blakely**) filed a “Motion to Intervene” in the Hallstrom portion of this consolidated case.

On March 14, 1996, Hallstrom filed a “Request to Amend Petition for Review.”

On March 20, 1996, Hallstrom filed an “Objection to Motion to Intervene.”

On March 22, 1996, “King County’s Response to Port Blakely Tree Farms’ Motion to Intervene” was filed with the Board.

On March 26, 1996, the Board held a prehearing conference limited to the Hallstrom portion of the case at its offices in Seattle, Washington. Board member M. Peter Philley conducted the hearing. ^[1] Steve Hallstrom appeared *pro se*; H. Kevin Wright and David Allnutt represented the County.

On March 27, 1996, the Board entered an “Order Granting Intervention and Final Prehearing Order” (the **Intervention and Final Prehearing Order**). The Intervention and Final Prehearing Order granted intervention to Port Blakely, set forth the legal issues in both the COPAC and Hallstrom portions of this consolidated case, as well as a briefing schedule and a date for the hearing on the merits, with a Final Decision and Order due on August 21, 1996.

On May 10, 1996, the Board received from COPAC and the County a signed “Agreed Order of Remand” (the **Agreed Order**). On May 13, 1996, the Board signed the Agreed Order, which remanded King County Comprehensive Plan Policy RL-407 to the County for further hearing and possible amendment by no later than November 12, 1996.

On May 20, 1996, the Board received from Hallstrom a “Prehearing Brief” (the **Hallstrom PHB**)

with five attachments.

On June 3, 1996, the Board received “King County’s Response to Hallstrom’s Prehearing Brief” (the **County PHB**) with nine exhibits attached. On this same date, the Board received the “Intervenor Port Blakely Tree Farms Hearing Brief” (the **Port Blakely Brief**).

On June 5, 1996, the Board issued an “Order Revising Starting Time for Hearing on the Merits and Establishing Schedule for Oral Argument” (the **Order Revising Hearing Schedule**). The Order Revising Hearing Schedule noted that, due to the Agreed Order, the only oral argument at the hearing on the merits would be on the Hallstrom issues.

On June 10, 1996, the Board received “Hallstrom’s Reply to King County’s Response and Port Blakely Tree Farms’ Brief” (the **Hallstrom Reply**).

The Board held a hearing on the merits on Wednesday, June 12, 1996, in the conference room of the Board’s office at 2329 One Union Square in Seattle, Washington. Present were Board Members Chris Smith Towne and Joseph W. Tovar, Presiding Officer in this matter. Steve Hallstrom appeared *pro se*. Present for the County were H. Kevin Wright and David Allnutt. Representing Port Blakely was Katherine Laird. Court reporting services were provided by Cynthia J. LaRose, CSR of Robert H. Lewis & Associates, Tacoma. No witnesses testified.

II. FINDINGS OF FACT

1. The Metropolitan King County Council (the **Council**) enacted Ordinance 10450, adopting Phase I CPPs, on July 6, 1992. *Vashon-Maury, et al., v. King County [Vashon-Maury]*, CPSGMHB Case No. 95-3-0008 (1995), Finding of Fact 2, at 9.
2. The Council enacted Ordinance 11446, adopting the Phase II CPPs, on August 18, 1994. *Vashon-Maury* Finding of Fact 3, at 9.
3. The Council enacted Ordinance 11575, adopting the 1994 Plan, on November 18, 1994. *Vashon-Maury* Finding of Fact 4, at 9.
4. The 1994 plan included a Forestry Lands map that included the designation of “Rural Forestry District Study Areas.” Stipulated Exhibit (**Stip. Ex.**) 2, at map following p. 100.
5. The Council adopted Motion 9514, allocating funds under King County’s Arts and Natural Resources Initiative, on March 27, 1995. Motion 9514 provided funding of \$3 million for a working forest program, “to preserve sustainable forest production lands and protect these lands against conversion to non-resource uses.” *See* County PHB, Exhibit 4, at 1, 5.
6. CPP LU-8 provides in part:

King County shall identify appropriate districts within the Rural Area where farming

and forestry are to be encouraged and expanded. These districts shall be designated by December 31, 1995. Stip. Ex. 3, at 13.

7. CPP LU-12 provides density guidelines for planning for Rural Areas:

Planning for Rural Areas should comply with the following density guidelines:

- a. One home per 20 acres to protect forest lands when designated in accordance with policy LU-8. Stip. Ex. 3, at 14.

8. CPP FW-10 provides:

To achieve and maintain rural character, King County, and the cities, as appropriate, shall use a range of tools including, at a minimum: land use designations, development regulations, level-of-service standards (particularly for infrastructure), and incentives. Stip. Ex. 3, at 13.

9. Policy R-204 of the 1994 Plan provides:

A residential density of one home per 20 acres or 10 acres shall be applied to lands in the Rural Area that are managed for forestry or farming respectively, and are found to qualify for a Rural Farming Forest District designation in accordance with Policy R-108. Stip. Ex. 2, at 66.

10. Policy R-108 of the 1994 Plan provides:

King County shall identify, in partnership with citizens and property owners, appropriate districts within the Rural Area where farming and forestry are to be encouraged and expanded through incentives and additional zoning protection. These districts shall be designated and zoned by December 31, 1995. . . . Permitted uses in Rural Farm or Forest Districts should be limited to residences at very low densities (one home per 20 acres for forest areas, one home per 10 acres for farming areas), and farming or forestry. Stip. Ex. 2, at 62.

11. The County hired a consultant team to study the issue of forestry preservation in King County. The consultant team's study was not completed by the end of 1995. *See* King County Council Utilities and Natural Resources Committee Staff Report, Respondent's Ex. 4, at 1.

12. In December 1995 the Council passed Ordinance 12061 which amended Policy R-108. The deadline to meet the requirement that the rural farm and forest districts be both designated and zoned by December 31, 1995 was changed to December 31, 1996. In addition, the following two sentences were added:

Initial district designations will be finalized during 1996, with possible revisions after

property owners have been notified. A process for zoning of the districts based on the incentives programs, will also be developed. Stip. Ex. 1, Respondent's Ex. 7.

13. The County amended the Forestry Lands Map in the Plan, changing some boundaries and replacing the designation "Rural Forestry District Study Areas" with "Rural Forest Districts." Stip. Ex. 1, Respondent's Ex. 5.

iii. COUNTY'S MOTION TO STRIKE

During the hearing on the merits, the County moved to strike two items: (1) a portion of the Hallstrom Reply, at page 3, that makes reference to the Rural Character Task Force report, and the report itself which was attached to the Hallstrom Reply; and (2) a portion of the Hallstrom PHB, at page 7, that makes reference to a report by Elaine Summers entitled "Loss of Rural Forest Land Base: Is There Cause for Concern?" The County argued that neither of these reports was in the record before the Board, and that Hallstrom had not filed a motion to supplement the record with either item. Hallstrom responded that both reports were part of the record in *Vashon-Maury* and that he had presumed that these reports were therefore already a part of the record presently before the Board. In the alternative, he requested that the Board add these reports to the record. The presiding officer did not rule on the County's Motion to Strike but indicated that a ruling would be subsequently entered.

Either upon motion by a party, or at its own discretion, the Board may take official notice of prior orders and decisions of any Board. WAC 242-02-660(5). Therefore, any order issued by the Board in *Vashon-Maury*, including the Board's Final Decision and Order, may be cited in the Final Decision and Order in the present matter. For example, the Findings of Fact set forth in the Final Decision and Order in *Vashon-Maury* provide a useful chronology of a number of County enactments, and several of these are cited in the above section.

However, the Board's rules do not provide for official notice of the pleadings or the record that was before the Board in a prior case. Unless the exhibits from a prior case are also listed in the index of record in the subsequent case, they are outside the latter record. **The Board holds that each GMA case is a discrete entity and that the entire record before the Board in a prior case does not automatically become a part of the record before the Board in a subsequent case. A party wishing to have the Board consider an exhibit from the record in a prior case must file a motion to supplement pursuant to WAC 242-02-540 and attach a copy of the proposed exhibit to the motion.**

The County's Motion to Strike is **granted**. The Board will not consider either the Rural Character Task Force Report nor the Elaine Summers report identified above, nor will it consider those portions of the Hallstrom briefs that make reference to them.

iv. DISCUSSION AND CONCLUSIONS

Petitioner Hallstrom and Intervenor Port Blakely allege that the County's amendment of Policy R-108 of its Plan, and its manner of adoption, are inconsistent with County-wide Planning Policy LU-8 and Plan Policy R-204, and do not comply with the requirements of the GMA. ^[2] To prevail, Hallstrom and Port Blakely must first demonstrate, as to each issue, that the County had a duty to act under the GMA, and then must show, by a preponderance of the evidence, how the County violated that duty. *Cole, et al., v. Pierce County*, CPSGMHB Case No. 96-3-0009c, Final Decision and Order, at 11 (July 31, 1996); *see also Robison, et al., v. City of Bainbridge Island*, CPSGMHB Case No. 94-3-0025, Final Decision and Order (May 3, 1995).

LEGAL ISSUE NO. 1

Is the amended King County Comprehensive Plan, specifically Policy R-108, consistent with King County County-wide Planning Policy LU-8?

Hallstrom's Position

Petitioner Hallstrom asserts that the amended Policy R-108 is facially inconsistent with CPP LU-8. Hallstrom PHB, at 2. Hallstrom points out that amended Policy R-108 states that the rural forest districts shall be designated by December 31, 1996; CPP LU-8 states that rural forest districts shall be designated by December 31, 1995. Hallstrom asserts that this inconsistency of deadlines violates the requirement that plans be consistent with CPPs. *Id.*

Port Blakely's Position

Like Hallstrom, Port Blakely asserts that Policy R-108 is facially inconsistent with CPP LU-8. Port Blakely argues that because CPP LU-8 and Policy R-108 contain different dates for accomplishing the rural forest district designations the plan is not consistent with the CPPs. Port Blakely Brief, at 1-2.

County's Position

The County argues that Hallstrom misinterprets the meaning of the amendment to Policy R-108. The County asserts that the Council "intended only to provide additional time for the process of zoning the Rural Forest Districts; the intent was never to delay these districts' designation." County PHB, at 7 (emphasis in original).

The County next argues that the amendment to Policy R-108 recognizes that Rural Forest Districts were in fact designated through the 1995 amendment process. Amended Policy R-108 refers to the former "study areas" as "initial district designations." The County asserts that because the designation occurred during the November 1995 Comprehensive Plan amendment

process, there is nothing to show the County “shirk[ed] its CPP-imposed duty to ‘designate’ rural forest districts by December 31, 1995.” County PHB, at 7-8.

Discussion

The County has a duty to make its plan policies consistent with CPPs. This requirement of consistency is evident from two portions of the GMA: the legislature’s statement of purpose for county-wide planning policies in RCW 36.70A.210, and the Act’s requirement for interjurisdictional coordination of comprehensive plans in RCW 36.70A.100. This Board has previously noted that a jurisdiction’s comprehensive plan must be consistent with the county-wide planning policies. *The Children’s Alliance and Low Income Housing Institute v. City of Bellevue [Children’s Alliance]*, CPSGMHB Case No. 95-3-0011, Order Partially Granting Bellevue’s Dispositive Motion (May 17, 1995), at 12; *see also, City of Snoqualmie v. King County [Snoqualmie]*, CPSGPHB Case No. 92-3-0004, Final Decision and Order (March 1, 1993), at 15-19. Therefore, the Forestry Lands Map in the County’s comprehensive plan, as amended by Ordinance 12061, must be consistent with the CPPs, specifically, CPP LU-8.

County-wide planning policies establish a framework to ensure that city and county comprehensive plans are consistent. RCW 36.70A.210(1). ^[3]

RCW 36.70A.100 requires comprehensive plans of certain counties and cities to be coordinated with each other. ^[4] The county-wide planning policies, developed by the county in consultation with its cities, provide a cohesive declaration from which the county and its cities develop their respective comprehensive plans. *Snoqualmie*, at 15-16. Unless each jurisdiction’s plan is consistent with the county-wide planning policies, the common county-wide goals cannot be achieved. In the present case, King County’s amended Policy R-108 must not be inconsistent with CPP LU-8.

CPP LU-8 directs the County to designate farming and forestry districts within the Rural Area by December 31, 1995. *See* Finding of Fact 6.

Policy R-108, as amended by Ordinance 12061, provides in part:

These [rural forestry] districts shall be designated and zoned by December 31, 1996. Initial district designations will be finalized during 1996, with possible revisions after property owners have been notified. *See* Finding of Fact 12.

A close reading of amended Policy R-108 reveals no inconsistency with CPP LU-8. Amended Policy R-108 clearly recognizes the existence of the “initial designation” of rural forest districts. Finding of Fact 12. This designation, whether initial or final, complies with CPP LU-8. Amended Policy R-108 establishes a date by which this initial designation will be revised, if

necessary, and is not inconsistent with CPP LU-8.

Petitioner Hallstrom and Intervenor Port Blakely failed to meet their burden to show, by a preponderance of the evidence, that the County's Policy R-108 is not consistent with CPP LU-8.

Conclusion No. 1

Hallstrom and Port Blakely failed to meet their burden to show that amended Policy R-108 was not consistent with CPP LU-8.

LEGAL ISSUE NO. 2

Is the amended King County Comprehensive Plan, specifically the "Forestry Lands -- 1995" map, consistent with King County County-wide Planning Policy LU-8?

Hallstrom's Position

Hallstrom asserts that the County fails to comply with CPP LU-8 if the designation of rural forest districts is not final by the CPP deadline. Although conceding that "maps do designate," Hallstrom argues that since the designations to the Forestry Lands Map are merely "initial district designations" and are almost certain to be revised, the County has not complied with CPP LU-8. Hallstrom PHB, at 3.

At the hearing on the merits, Hallstrom asserted that the County should have designated the rural forest districts by December 31, 1995, and then not changed those designations "until the proper ten-year process has gone on." Transcript of June 12, 1996, Hearing, at 11.

Port Blakely's Position

Port Blakely argues that, in amending the Forestry Lands Map, the County did not comply with the requirements of Policy R-108. Specifically, Port Blakely asserts the County failed to make designations "in partnership with citizens and property owners." Port Blakely Brief, at 3.

Port Blakely argues that the amendment to R-108 represents an admission by the County that the "purported" designation of rural forest districts was not a result of the process required by Policy R-108. The amended language relied on by Port Blakely states in part:

Initial district designations will be finalized during 1996, with possible revisions after property owners have been notified. Port Blakely Brief, at 3 (citing Policy R-108) (emphasis in Port Blakely Brief).

County's Position

The County argues that LU-8 requires only that the districts be designated, not that these designations be permanent or undisturbed; there is no requirement that these designations be “set in stone.” County PHB, at 9.

The County cites policy justifications for the Council’s decision to make an initial designation, subject to future revision. First, the County points out that the consultant team had not completed its study in 1995. *See* Finding of Fact 11. The completed study will allow the County to “fine tune” its district boundaries. Next, the County wishes to provide additional and individual notice and opportunity to be heard to the owners of property located within the rural forest districts. County PHB, at 9.

The County did not brief a response to Intervenor Port Blakely’s argument that the County failed to comply with the procedural requirements of Policy R-108. *See* Port Blakely’s Position *infra*. However, at the hearing on the merits the County argued that the process of designating rural forest districts is not an issue properly before the Board. Transcript of June 12, 1996, Hearing, at 36. Nonetheless, the County argued that notice of the designation was legally adequate, and that Port Blakely has presented no evidence that notice was legally infirm. *Id.*

Discussion

As set forth in Legal Issue No. 1, *supra*, a jurisdiction’s comprehensive plan must be consistent with the county-wide planning policies.

CPP LU-8 states that rural forest districts “shall be designated by December 31, 1995.” Finding of Fact 6. There is no question that, in amending the Forestry Lands Map to replace the term “Rural Forestry District Study Area” with “Rural Forest District,” the County intended to designate rural forest districts. The County characterizes this action as an initial designation. Finding of Fact 12. Hallstrom asserts that such an initial designation is not consistent with CPP LU-8. Hallstrom PHB, at 3. However, CPP LU-8 merely provides the deadline for designating rural forest districts, with no limitation on future modifications. To designate means to “indicate, specify or point out.” *Pilchuck v. Snohomish County [Pilchuck]*, CPSGMHB Case No. 95-3-0047, Final Decision and Order (December 6, 1995), at 18. This the County has done.

The GMA anticipates the need for revising comprehensive plans, and in fact directs the consideration of the need for revision, while limiting the frequency of amendments. RCW 36.70A.130 provides:

(1) Each comprehensive land use plan and development regulations shall be subject to continuing evaluation and review by the county or city that adopted them.

...

(2)(a) . . . proposed amendments or revisions of the comprehensive plan are considered by the governing body of the county or city no more frequently than once every year [with

some exceptions]. (emphasis added).

As Hallstrom conceded at the hearing on the merits, the County designated rural forest districts when it amended the Forestry Lands Map. Transcript of June 12, 1996, Hearing, at 10. The County's admission that these "[i]nitial district designations will be finalized during 1996, with possible revisions," Finding of Fact 12, does not equate to failure to designate rural forest districts by the deadline established in CPP LU-8. Rather, the County's anticipation of revisions to the rural forest district boundaries appears to be precisely the "evaluation and review" acknowledged in RCW 36.70A.130.

Hallstrom's argument that the districts should be designated, and then not changed for ten years, is without merit. Requiring a final plan designation to be unalterable for that length of time would be contrary to the dynamic, organic nature of the GMA.^[5] The Act speaks of Plan review at ten-year intervals only with regard to designated urban growth areas (UGAs), directing counties to revise their UGAs, if necessary, to accommodate the urban growth projected for the next twenty-year period. RCW 36.70A.130(3). In addition, the GMA recognizes that the need to amend plans is inevitable; the GMA authorizes annual amendments to comprehensive plans. RCW 36.70A.130(2)(a).

Petitioner Hallstrom has failed to meet his burden to show, by a preponderance of the evidence, that the County's amendment of the Forestry Lands Map is not consistent with CPP LU-8.

Port Blakely argues that the County has not designated rural forest districts in partnership with citizens and property owners as required by Policy R-108 and therefore the County has not effectively designated rural forest districts. Port Blakely Brief, at 2-3. However, Port Blakely has not explained to the Board what "in partnership with citizens and property owners" means. Nor has Port Blakely shown how the County has failed to comply with this provision of Policy R-108.

Port Blakely relies on the County's "admission" in amended Policy R-108, where the County states that rural forest district designations may be revised in 1996 "after property owners have been notified." Finding of Fact 12. However, it does not follow from the quoted language that the County has failed to designate the rural forest districts in partnership with citizens and property owners. The County argues that the quoted language demonstrates an intent to provide notice beyond that legally required. Transcript of June 12, 1996, Hearing, at 36. The County stated it "wishes to provide additional notice and opportunity to be heard to the owners of property located within the Rural Forest Districts." County's PHB, at 9. Port Blakely has not effectively refuted the County's argument.

Intervenor Port Blakely has failed to meet its burden to show, by a preponderance of the evidence, that the County's amendment of the Forestry Lands Map is not consistent with CPP LU-

8.

The Board holds that the Forestry Lands-1995 Map of the County’s Plan is consistent with CPP LU-8. CPP LU-8 provides the deadline for designating rural forest districts. This the County has done. The County’s label of “initial” designation does not retract or diminish that the County has designated. In addition, there has been no showing that the County did not act “in partnership with citizens and property owners” when it amended the Forestry Lands Map.

Conclusion No. 2

Hallstrom and Port Blakely have failed to meet their burden to show that the County’s amendment of the Forestry Lands Map is not consistent with CPP LU-8.

LEGAL ISSUE NO. 3

If the County has designated Forest Districts, then has the County failed to comply with RCW 36.70A.120 by failure to implement development regulations pursuant to Comprehensive Plan Policy R-204?

Hallstrom’s Position

Hallstrom argues that if the County has in fact designated rural forest districts, then the County has not implemented development regulations in conformity with Policy R-204 of the King County Comprehensive Plan, and the County is not in compliance with RCW 36.70A.120. Hallstrom PHB, at 4-5.

Hallstrom argues that areas designated rural forest districts must be zoned “to achieve one home per 20 acres as required by [Policy] R-204.” Hallstrom PHB, at 5. Hallstrom asserts that the County may not rely exclusively on incentives to maintain rural forests; rather, FW-10 requires the County to use development regulations (*viz.*, zoning) and incentives. *Id.* at 9. Pointing to the deadline in unamended Policy R-108, Hallstrom argues that the County must implement development regulations at the time of designation. *Id.* at 11.

Port Blakely’s Position

Port Blakely does not share Hallstrom’s view that the County must implement new zoning upon designating rural forest districts. Port Blakely “believes the County has the discretion to use a variety of tools for achieving the goals of the GMA.” Consequently, Port Blakely asserts that incentives are an appropriate tool for achieving compliance with the GMA. Port Blakely Brief, at 4.

County’s Position

The County argues that Policy R-204 does not require that a 20-acre density be achieved by any particular date. Consistent with the County's amended comprehensive plan, the County has established a self-imposed deadline to zone rural forest districts by December 31, 1996. "While the County must apply 20 acre zoning under Policy R-204, it need not do so until December 31, 1996 (according to R-108)." County PHB, at 10-11.

Next the County argues that the plain language of Policy R-204 indicates that this policy of 20-acre density applies only to lands that are managed for forestry.^[6] Finally, the County states that it will not know what lands are managed for forestry until after the consultant team issues its final report and landowners in the rural forest district have been given an opportunity for comment. County PHB, at 11-12.

Discussion

The County is required to comply both with GMA-imposed duties and with self-imposed duties. *See Benaroya v. City of Redmond [Benaroya]*, CPSGMHB Case No. 95-3-0072, Final Decision and Order (March 25, 1996), at 22, where the Board stated:

A city may choose to undertake optional neighborhood planning, pursuant to RCW 36.70A.080; however, those neighborhood plans must comply with the Plan and the requirements of the GMA. *Benaroya*, at 22.

In the present instance, the self-imposed duty was to adopt regulations by a County-selected deadline. Plan Policy R-204 provides:

A residential density of one home per 20 acres or 10 acres shall be applied to lands in the Rural Area that are managed for forestry or farming respectively, and are found to qualify for a Rural Farming Forest District Designation in accordance with Policy R-108. Finding of Fact 9.

Amended Policy R-108 provides a zoning deadline of December 31, 1996. Finding of Fact 12.

The County chose to move the deadline, for reasons of its own. So long as the deadline remains a part of the County's adopted GMA plan, it has a duty, pursuant to RCW 36.70A.120 to "perform its activities . . . in conformity with its comprehensive plan."^[7] **The Board holds that when a local government includes a self-imposed duty in its plan, such as a deadline, the consistency requirements of RCW 36.70A.070 and .120 oblige it to meet that duty; however, it retains the discretion to amend its plan, including the revision or deletion of such a self-imposed duty, provided that it does so pursuant to the authority and requirements of RCW 36.70A.130.** In the present instance, the County exercised its discretion to amend its Plan to give itself an additional year to adopt development regulations.

Conclusion No. 3

Hallstrom has failed to meet his burden to show that the County failed to comply with RCW 36.70A.120 by not implementing development regulations pursuant to Policy R-204. The County created a self-imposed duty to adopt zoning regulations by the 1995 deadline and had the lawful authority to amend that deadline.

V. ORDER

Having reviewed and considered the above-referenced documents, having considered the arguments of the parties, and having deliberated on the matter, the Board finds as follows:

1. With regard to the Policy R-108, Policy R-204 and the 1995 Forestry Lands Map, the King County Comprehensive Plan is internally consistent, is consistent with the County-wide planning policies and is **in compliance** with the requirements of the GMA.
2. With regard to Policy RL-407, which was the subject of the Agreed Order of Remand, the County is ordered to provide to the Board, with a copy to COPAC, a copy of its statement of compliance with the Agreed Order by November 19, 1996.

So ORDERED this 21st day of August, 1996.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

Joseph W. Tovar, AICP
Board Member

Chris Smith Towne
Board Member

Note: This Final Decision and Order constitutes a final order as specified by RCW 36.70A.300 unless a party files a Petition for Reconsideration pursuant to WAC 242-02-830.

^[1] Board member Joseph W. Tovar became Presiding Officer in this matter when it was determined that Board

member M. Peter Philley would be leaving the Board while this case was pending.

[2] Policy R-204 provides the residential densities to be applied to certain rural areas; it does not state a deadline by which the county must adopt implementing zoning regulations. *See* Finding of Fact 9. That deadline was established by Policy R-108 which, prior to the challenged amendment, required both designation and zoning by December 31, 1995. *See* Finding of Fact 10.

[3] RCW 36.70A.210(1) provides in part:

[A county-wide planning policy establishes] a county-wide framework from which county and city comprehensive plans are developed and adopted pursuant to this chapter. This framework shall ensure that city and county comprehensive plans are consistent as required in RCW 36.70A.100.

[4] RCW 36.70A.100 states:

The comprehensive plan of each county or city that is adopted pursuant to RCW 36.70A.040 shall be coordinated with, and consistent with, the comprehensive plans adopted pursuant to RCW 36.70A.040 of other counties or cities with which the county or city has, in part, common borders or related regional issues.

[5] The Board first recognized the dynamic nature of comprehensive plans when it concluded that planning is an *iterative* and *interactive* process. *Twin Falls, et al., v. Snohomish County [Twin Falls]*, CPSGMHB Case No. 93-3-0003 (September 7, 1993), fn. 27 at 79. The Board later held that the nature of planning under the GMA is similarly iterative and interactive. *Edmonds, et al., v. Snohomish County [Edmonds]*, CPSGMHB Case No. 93-3-0005 (October 4, 1993), at 26. More recently, the Board has observed that the dynamic nature of GMA plans is an acknowledgment that, over the long-term, new facts become known, new decisions are rendered, local priorities are revisited, statutes and case law evolve and even economic and social trends shift. Thus, GMA plans “are neither written in shifting sand, nor etched in immutable stone.” *Pilchuck*, at 24.

[6] The 20-acre zoning stated in Policy R-204 applies to lands that are (1) managed for forestry, and (2) are found to qualify for a Rural Forest District designation in accordance with Policy R-108. Finding of Fact 9.

[7] RCW 36.70A.120 provides:

Each county and city that is required or chooses to plan under RCW 36.70A.040 shall perform its activities and make capital budget decisions in conformity with its comprehensive plan. [1993 sp.s. c 6 § 3; 1990 1st ex. s. c 17 § 12.]