CENTRAL PUGET SOUND
GROWTH MANAGEMENT HEARINGS BOARD
STATE OF WASHINGTON

BANIGAN, et al.,	)	**Consolidated**
Petitioners,	)	**Case No. 96-3-0016c**
v.	)	**ORDER GRANTING**
KITSAP COUNTY,	)	**DISPOSITIVE MOTIONS**
Respondent,	)	
and	)	
POPE RESOURCES, PORT OF BREMERTON and PETER E. OVERTON and OVERTON & ASSOCIATES,	)	
Intervenors.	)	

This document combines several actions by the Central Puget Sound Growth Management Hearings Board (the **Board**). First, the Board recounts the relevant Procedural Background in this matter. Second, based upon the record, the Board sets forth its Findings of Fact. Third, the Petition for Reviw (**Petition** or **PFR**) filed by Leslie Banigan (hereafter referred to as **Banigan**) is dismissed for failure to submit a prehearing brief to the Board. Fourth, the Board discusses its rulings on the various motions that have been filed in this matter. Lastly, the Board sets forth its Order.

I. PROCEDURAL BACKGROUND

On January 10, 1996, the Board received a Petition from Leslie Banigan.The matter was initially assigned Case No. 96-3-0002.

On February 16, 1996, the Board received a Petition from Kitsap Citizens for Fair Government:

Linda Cazin (**Cazin**.)The matter was initially assigned Case No. 96-3-0010.

On February 20, 1996, the Board received a Petition from the Union River Basin Protection Association (**Union River**).The matter was initially assigned case number 96-3-0011.

On March 15, 1996, the Port of Bremerton (the **Port**) filed its Motion to Intervene.

On March 18, 1996, the Board received a Petition from the Port Gamble S'Klallam Tribe (the **Tribe**).The matter was assigned Case No. 96-3-0016.

On April 25, 1996, the Board consolidated the Banigan, Cazin, Union River, and Tribe Petitions and assigned consolidated case number 96-3-0016c, referred to as ***Banigan***.Additionally, the Board entered a Prehearing Order (the **Banigan Prehearing Order**) establishing the final schedule for the case and setting forth the legal issues to be determined.The Board also granted intervention to the Port.

On May 10, 1996, Kitsap County (the **County**) filed its Motion to Dismiss Union River for lack of standing (the **County's Motion to Dismiss**).

On May 15, 1996, the Board received the County's Motion to Supplement the Index to the Record together with a Declaration of John P. Vodopich.

On May 17, 1996, the Board received Cazin's Preliminary Exhibit List and Motion to Supplement the Record.

On May 20, 1996, the Board received the Port's Motion to Join in the County's Motion to Dismiss (the **Port's Motion to Join**).

On May 28, 1996, the Board received a copy of the signed agreement of the parties to this case to stipulate to a list of core documents and exhibits.

On or about May 30, 1996, Union River filed its Response to the County's Motion to Dismiss (**Union River's Response**).

On June 5, 1996, the County filed its Reply to Union River's Response (the **County's Reply**).

On June 10, 1996, the Port filed its Reply to Union River's Response (the **Port's Reply**).

Also on June 10, 1996, the Board received the County's Motion to Amend the Index to the Record.At the same time, the County filed the List of Core Documents.

On June 24, 1996, the Board received a copy of Cazin's Motion to Supplement the Record.

On June 25, 1996, the Board received from the parties their Stipulated Exhibit List.

On July 2, 1996, the Board received notice from Banigan that she would be unable to file a brief for this case.

On July 9, 1996, the Board received from Kitsap County an "Emergency Motion to Dismiss Consolidated Petitioners for Review" (the **Emergency Motion**.)

Also on July 9, 1996, the Board received a letter from the County with copies of nine ordinances referenced in the County's Brief on its Motion to Dismiss.*See* Findings of Fact Nos. 5 through 13 for a description of the ordinances.Also attached was [Unnumbered proposed] Ordinance "Renewing for a Period of Six Months Ordinance 186-1996 'Adopting an Interim Urban Growth Area for Port Gamble.'"

On July 10, 1996, the Board received "Union River Protection Association's Objections to Kitsap County's Emergency Motion to Dismiss Consolidated Petitions for Review."

On July 11, 1996, the Board received a letter from the County providing copies of the ordinance referenced in the County's Brief.

On July 12, 1996, a telephonic conference on the Emergency Motion was held at the Board's office in Seattle.Board members Joseph W. Tovar and Chris Smith Towne, presiding officer, were present for the Board, with the other parties appearing telephonically.David A. Bricklin represented Tulalip; Linda Cazin appeared *pro se*, Elaine Manheimer represented Union River; PeterE. Overton represented Intervenor Peter E. Overton and Overton & Associates; David Weibel represented the Port of Bremerton; Craig L. Jones represented Pope Resources; and William Plaucherepresented the County.Court reporting services were provided by Cynthia LaRose of Robert H. Lewis and Associates, Tacoma.The Board announced that the County's Motion to Dismiss Union River would be granted.The Tribe, Cazin and the County informed the Board that two tentative stipulated agreements were being circulated, and that further efforts would be required to reach final agreements resulting in dismissal of the case.A second telephone conference was scheduled for July 17, 1996.

On July 17, 1996, the parties again conferred telephonically.Board member Chris Smith Towne, presiding officer, was present at the Board's office, with the other parties appearing telephonically.David A. Bricklin represented Tulalip; Linda Cazin appeared *pro se*, Peter E. Overton represented Intervenor Peter E. Overton and Overton & Associates; James Ryan represented the Port of Bremerton; Craig L. Jones represented Pope Resources; and William Plauche and Amy Kosterlitzrepresented the County.Court reporting services were provided telephonically by Jean Ericksen of Robert H. Lewis and Associates, Tacoma.

On July 22, 1996, the Board received a signed copy of the Stipulation and Order of Dismissal

between the Port Gamble S'Klallam Tribe and the County.

On July 23, 1996, the Board received a signed copy of the Stipulation and Order of Dismissal between Cazin and the County.

II.FINDINGS OF FACT

1.The County's comprehensive plan, including Urban Growth Area boundaries (**UGAs**) and implementing development regulations, adopted on December 29, 1994,were invalidated by the Board on October 6, 1995.The Board ordered the County to prepare a comprehensive plan, including UGAs, and implementing development regulations which comply with the GMA and the Board's Order by April 3, 1996.The Board further ordered that the County must justify and show its work when urban growth areas are extended beyond incorporated city limits. *Bremerton, et al., v. Kitsap County*, CPSGMHB Case No. 95-3-0039, Final Decision and Order (October 6, 1996), at 90-92.

2.During the period between October 6, 1995, and January 8, 1996, the County Planning Commission and the County Commissioners held hearings regarding proposed Interim UGA Ordinances, a Zoning Ordinance, and the Critical Areas Ordinance, at which public testimony was heard and evidence on the proposed ordinances was accepted.

3.On October 23, 1995, the County declared an emergency and adopted new ordinances adopting Interim UGAs (Ordinance No. 177-1995) and interim zoning (Ordinance No. 178-1995), and designating and protecting critical areas.The Interim UGA boundaries were drawn at, or very close to, existing city limits.

4.On January 8, 1996, the County adopted non-emergency ordinances, Ordinances 181-1996 through 190-1996, related to interim zoning, designating and protecting interim critical areas, and establishing IUGAs.
5.On July 8, 1996, the County adopted Ordinance No. 181-A-1996, "Renewing for a Period of Six Months Ordinance 181-1996 'Adopting Interim Development Regulations to Protect Critical Areas and a Map Designating Interim Critical Areas'" with an attachment A: "County Actions Taken toward Required Revisions of Comprehensive Plan Following Adoption of Interim Land Use Ordinances in January of 1996."

6.On the same date, the County adopted Ordinance No. 182-A-1996, "Renewing for a Period of Six Months Ordinance 182-1995 'Adopting an Interim Zoning Ordinance'" with a copy of Attachment A described above.

7.On the same date, the County adopted Ordinance No. 183-A-1996 "Renewing for a Period of Six Months Ordinance 183-1996 'Adopting an Interim Zoning Map', in Part, and Rezoning

the Port Gamble Area," with an attached map of the Port Gamble Interim Urban Growth Area, and a copy of Attachment A.

8.On the same date, the County adopted Ordinance No. 184-A-1996, "Renewing for a Period of Six Months Ordinance 184-1996 'Adopting an Interim Urban Growth Area for the Port of Bremerton'" with a copy of Attachment A.

9.On the same date, the County adopted Ordinance No. 185-A-1996, "Renewing for a Period of Six Months Ordinance 185-1996 'Adopting an Interim Urban Growth Area for the City of Port Orchard'" with a copy of Attachment A.

10.On the same date, the County adopted Ordinance No. 187-A-1996, "Renewing for a Period of Six Months Ordinance 187-1996 'Adopting an Interim Urban Growth Area for Central Kitsap (Including the City of Bremerton)'" with a copy of Attachment A.

11.On the same date, the County adopted Ordinance No. 188-A-1996, "Renewing for a Period of Six Moths Ordinance 188-1996 'Adopting an Interim Urban Growth Area for Kingston'" with a copy of Attachment A.

12.On the same date, the County adopted Ordinance No. 189-A-1996 "Renewing for a Period of Six Months Ordinance 189-1996 'Adopting an Interim Urban Growth Area for the City of Poulsbo'" with a copy of Attachment A.

13.On the same date, the County adopted Ordinance No. 190-A-1996, "Renewing for a Period of Six Months Ordinance 190-1996 'Adopting an Interim Urban Growth Area for the City of Bainbridge Island'" with a copy of Attachment A.

III. Dismissal of Banigan

Section VI of the *Banigan* Prehearing Order established the Final Schedule for this case.Pursuant to this schedule, July 2, 1996, was set as the deadline for filing of petitioners' briefs.On July 1, 1996, the Board received notice from Banigan that she would be unable to file a brief in support of her Petition.

The Board has previously considered the question of unbriefed issues in *Twin Falls, Inc., et al., v. Snohomish County*, CPSGMHB Case No. 93-3-0003, Final Decision and Order, (September 7, 1993).The Board began its analysis by observing that the burden of proof in a case before the Board is on the petitioner.To meet that responsibility a petioner must:

> ... show why the actions of a local government are not in compliance with the GMA.Simply raising an issue is not enough for the Board to resolve it.The Board must review the Petitioner's rationale for its contention, and weigh that argument against the local

> government's response.Without preparing a brief or legal memoranda, a petitioner cannot meet its burden....
>
> Finally, the Board notes that it need not determine whether an issue was intentionally abandoned (for instance, a tactical decision or because the issue has subsequently been resolved) or abandoned through neglect.As a general rule, so long as the party was afforded ample opportunity to brief its issues, either by means of dispositive motions or hearing briefs, the Board will treat an unbriefed legal issue as abandoned; it will not be considered, and will be dismissed with prejudice. *Twin Falls*, at 17-18.

Thus, a petitioner's issues which are unbriefed will be considered abandoned, and accordingly, will not be considered further and will be dismissed with prejudice.**The Board holds that Banigan's legal issues are abandoned, and the Banigan Petition is dismissed with prejudice.**

IV. motions

A. COUNTY'S MOTION TO DISMISS UNION RIVER

1.Positions of the Parties

The County

The County contends that Union River's Petition should be dismissed for two distinct reasons. First, the County contends that, pursuant to RCW 36.70A.280(2), Union River lacks GMA appearance standing to challenge the IUGA Ordinances, Zoning Ordinance, and the Critical Areas Ordinance.Second, the County contends that Union River has not alleged Administrative Procedure Act (**APA**) standing within its Petition, and therefore should not be granted standing to challenge the County's actions on this basis, pursuant to the Board's prior decisions with respect to APA standing.

In the alternative, the County contends that, even if the Board determines that Elaine Manheimer's appearance during the County's November 28, 1995, hearing is sufficient to grant Union River Growth Management Act (**GMA**) appearance standing, such standing should extend only to Union River's challenge of the County's Critical Areas Ordinance.

Union River

In response, Union River contends that Ms. Manheimer's appearance during the November 28, 1995, hearing is sufficient to grant Union River GMA Appearance standing.Union River contends that, notwithstanding the fact Ms. Manheimer did not identify herself as representing Union River during this hearing, the County's staff and the County Commissioners knew that Ms. Manheimer represented Union River.Additionally, Union River contends that both it and Ms. Manheimer are within the zone of interest of the GMA and have suffered an injury in fact by the

County's actions, thereby establishing APA standing to bring the Petition.

In the alternative, Union River contends that, even if the Board determines that it does not have standing to challenge the County's actions, Ms. Manheimer should be substituted as the petitioner in place of Union River.

2.Discussion

At the time that Union River's petition was filed, the GMA's standing provision, RCW 36.70A.280(2), provided as follows:

> A petition may be filed only by the state, a county or city that plans under this chapter, a person who has either appeared before the county or city regarding the matter on which a review is being requested or is certified by the governor within sixty days of filing the request with the board, or a person qualified pursuant to RCW 34.05.530.[1]

The Board has determined that a petition for review must specify which method (i.e., appearance, APA, or governor certification) is being relied upon to obtain GMA standing.*Hapsmith, et al., v. City of Auburn*, CPSGMHB Case No. 95-3-0075c, Final Decision and Order (May 10, 1996), at 16 (***Hapsmith I***).However, the petition need not contain supporting evidence.Instead, evidence necessary to prove standing can be offered if the petitioner's standing to bring the case is subsequently challenged.*Id.*

GMA Appearance Standing

The Board has interpreted the "appearance standing" provision liberally.It is available to a person regardless of whether that person has been injured:

> Appearance before a local legislative body can be accomplished either [1] by personally appearing at a [public] hearing or meeting at some time during the process, [2] by personally appearing and participating or testifying at a [public] hearing or meeting during the process, or [3] by submitting written comments to the local jurisdiction or its agents....

Twin Falls, Order Partially Granting Petitioners' Motions to Supplement the Record and Order Granting County's Motion for Limited Discovery, at 6.However, with respect to organizations, the Board has held that "for an organization to have standing, a member of that organization must identify him or herself as a representative of the organization, when that person attends the hearing or meeting, testifies at a hearing, or submits a letter on the subject."*See Hapsmith I*, at 13.

In its Petition, Union River alleges as follows:

> Petitioners and their representatives have been present and provided oral and written testimony at every hearing and meeting that they were informed of and were able to attend throughout the development of the new emergency ordinances. PFR, at 5.

However, in its Motion to Dismiss, the County alleges that it has reviewed the entire record of the public hearings held and the evidence submitted between the dates of October 6, 1995, and January 8, 1996, and that nowhere in the record is Union River's allegation of standing supported. Although the County concedes that Ms. Manheimer did offer testimony regarding critical areas during a hearing on November 28, 1995, the County also maintains that Ms. Manheimer never indicated that she was representing Union River.County's Motion to Dismiss, at 3.

In its Response, Union River fails to explicitly address the County's allegations.Rather, Union River attempts to support its position on standing with three distinct arguments:(1) Union River cites to the Washington Supreme Court's decision in *King County v. Boundary Review Board*, 122 Wn.2d 648, 668-670, 860 P.2d 1024 (1993), and the Board's decision in *Hapsmith I* as supporting its position on standing; (2) Union River claims that both it and Ms. Manheimer are within the zone of interest of the GMA and that they have suffered an injury in fact (i.e., Union River has APA standing to challenge the County's actions); and (3) Union River claims that the County's Staff and the County Commission know that Ms. Manheimer is a spokesperson for and board member of Union River.In addition, Union River offers various correspondence and documents to support its claim that the County's officials know that Ms. Manheimer represents Union River.For the reasons discussed below, the Board finds Union River's arguments with respect to GMA appearance standing unpersuasive.

First, Ms. Manheimer did not identify herself as representing Union River during her testimony at the November 28, 1995, hearing.She merely identified herself as a "[r]esident for 30 years."*See* Kitsap County Planning Commission Hearing Minutes (November 28, 1995), at 16.The Board has consistently held that, for an organization to "appear", its representative must state that he or she represents the organization.The purpose of this requirement is to "give[] notice to the local government that the people before it represent more than individual interests, that they are part of a group."*Sky Valley v. Snohomish County*, CPSGMHB Case No. 95-3-0068c, Final Decision and Order, at 21 (March 12, 1996).Additionally, the Board stated in *Sky Valley* that "failure to give such notice is fatal to an organization's standing."*Id*.Nothing in the Board's decision in *Hapsmith I* contravenes this rule.

Similarly, the Washington Supreme Court's decision in *King County v. Boundary Review Board* does not support Union River's position with respect to standing.Although it is unclear whether Union River is claiming (1) that this case supports its position on standing, or (2) that it supports Union River's challenge of the IUGA Ordinances, the Zoning Ordinance, and the Critical Areas Ordinance, despite the fact that Ms. Manheimer offered testimony only regarding critical areas,

neither argument is valid.The portion of *King County v. Boundary Review Board* cited by Union River has nothing to do with standing.Rather, the Court held that *issues* not raised before the applicable agency could not be raised for the first time on appeal.*King County v. Boundary Review Board*, at 668.

Second, none of the correspondence or documents submitted by Union River support Union River's allegation that it has GMA appearance standing.Only two documents submitted by Union River are even relevant to the County's actions being challenged in this case.The first is documentation of an informal communication between Ms. Manheimer and a County official regarding the IUGA Ordinance for the Port, and the second is a letter from Union River to the County Commissioners also regarding the IUGA Ordinance for the Port.

With respect to informal communications, the Board has held that "[t]alking to a member(s) of a local government off the record (i.e., not at a public hearing or meeting) does not constitute appearance, but writing one letter will suffice to grant standing."*Friends of the Law*, CPSGMHB Case No. 94-3-0003(1994), Order on Dispositive Motions, at 9.

Here, Ms. Manheimer contacted Mr. John Vodopich of the County's Department of Community Development by telephone on January 3, 1996, regarding obtaining a copy of the proposed IUGA Ordinance for the Port.Pursuant to Ms. Manheimer's request, Mr. Vodopich sent a facsimile transmission to Union River of a copy of the proposed IUGA Ordinance for the Port.These communications were clearly not part of the official record before the County, and thus are not sufficient to confer GMA appearance standing upon Union River.

Similarly, Union River's letter to the County Commissioners regarding the IUGA Ordinance for the Port was not part of the official record.Union River sent this letter to the County on January 9, 1996, after the record on the matter had been closed and after the County had adopted the ordinance.Thus, this letter is also not sufficient to confer GMA appearance standing upon Union River.Therefore, **the Board holds that Union River does not have GMA appearance standing to challenge the IUGA Ordinances, the Zoning Ordinance, or the Critical Areas Ordinance.**

<u>APA Standing</u>

The APA's standing provision, RCW 34.05.530, is specifically referred to in RCW 36.70A.280 (2).RCW 34.05.530 provides as follows:

> A person has standing to obtain judicial review of agency action if that person is aggrieved or adversely affected by the agency action.A person is aggrieved or adversely affected within the meaning of this section only when all three of the following conditions are present:
>
> (1)The agency action has prejudiced or is likely to prejudice that person;

> (2)That person's asserted interests are among those that the agency was required to consider when it engaged in the agency action challenged; and
>
> (3)A judgment in favor of that person would substantially eliminate or redress the prejudice to that person caused or likely to be caused by the agency action.

The Board applies the analysis contained in *Trepanier v. Everett*, 64 Wn.App. 380, 824 P.2d 524, *review denied*, 119 Wn.2d 1012 (1992), to determine whether a person is "aggrieved or adversely affected" as that phrase is used in the above-quoted statute.*Friends of the Law*, Order on Dispositive Motions, at 15.

Trepanier sets forth a two-part test to determine whether a person has standing.[2] First, the interest that the petitioner is seeking to protect must be arguably within the zone of interests to be protected or regulated by the statute; and second, the petitioner must allege an injury in fact by demonstrating that the party is "specifically and perceptibly harmed" by the government action. *Trepanier*, at 382.

However, as set forth in *Hapsmith I*:

> ... petitions for review relying upon APA standing must either allege that the petitioners are within the zone of interests of the GMA and that they have been injured by the local government's GMA action, or they must cite to the specific GMA standing provision under which they qualify (i.e., RCW 36.70A.280(2)'s language "qualified pursuant to RCW 34.05.530"). *Hapsmith I*, Final Decision and Order, at 16.

Here, Union River's Petition asserts only that it has standing on the basis of GMA appearance. Thus, Union River has not satisfied the requirements as explained in *Hapsmith I* with respect to APA standing.Therefore, **the Board holds that Union River does not have APA standing to challenge the IUGA Ordinances, the Zoning Ordinance, or the Critical Areas Ordinance.**

<u>Substitution of Ms. Manheimer as Petitioner</u>

In the alternative, Union River claims that, if the Board holds that it lacks standing to challenge the County's action, Ms. Manheimer should be substituted for Union River as the petitioner.In response, the County alleges that "Ms. Manheimer is now time barred from bringing a petition on her own behalf."County's Reply, at 6.The Board agrees with the County's argument.
With respect to the County's actions challenged in this case, the GMA appeals procedures delineated in the Washington Administrative Code (the **WAC**) provide that a petition for review must be filed within sixty days from the date of publication by the County of the adoption of the ordinances.*See* WAC 242-02-220.Additionally, the Code provides that "[a] petition for review ...

may be amended as a matter of right until thirty days after its date of filing."WAC 242-02-260(1). However, any proposed amendments after the initial thirty-day period must be submitted in writing by motion and approved by the Board.WAC 242-02-260(2).
In this case, the challenged ordinances were adopted on January 8, 1996, and notice of adoption was published on January 17, 1996.While Union River's appeal was timely filed, on February 20, 1996, Ms. Manheimer did not file an appeal as an individual within sixty days of the date of publication.Further, Union River neither amended its Petition within thirty days of filing to add Ms. Manheimer as a petitioner, nor submitted a written motion requesting amendment of its Petition after this initial thirty-day period had elapsed.Therefore, Union River's attempt to now substitute Ms. Manheimer as the petitioner is untimely.**The Board holds that Union River may not substitute Ms. Manheimer as the petitioner in this matter.**

b. COUNTY'S EMERGENCY MOTION TO DISMISS

After the expiration of the Ordinance establishing a Port Gamble IUGA, and the County's action to rescind zoning for that area, the County filed an Emergency Motion to Dismiss this case on July 9, 1996.Subsequent to the filing of the Emergency Motion to Dismiss, several conferences were held among the parties and the Board's presiding officer.These events culminated in the filing of two Stipulations and Orders of Dismissal between the County and each of the remaining petitioners in this case (the **Tribe Stipulation** and the **Cazin Stipulation**).

The Stipulations set forth the significant actions that have occurred since the Tribe's and Cazin's Petitions were filed, namely: (1) adoption of an ordinance rescinding tourist commercial and waterfront industrial zoning for Port Gamble and replacing it with R-M zoning; and (2) the expiration of the Ordinance providing an IUGA for Port Gamble.

The Cazin Stipulation further provides for at least two meetings between the Kitsap County Commissioners and specified citizens.Additionally, the Cazin Stipulation contains Cazin's agreement to withdraw her appeal, and the County's acknowledgment that the withdrawal is without prejudice to Cazin's right to raise those issues which address matters beyond the establishment of the Port Gamble IUGA and zoning issues affecting the Port Gamble IUGA, in any subsequent appeal.

The Tribe and Cazin Stipulations are attached hereto as Attachments A and B and incorporated by this reference.**Based upon these Stipulations, the Board dismisses the Port Gamble S'Klallam Tribe and Cazin Petitions in this case with prejudice.**[3]

c. OTHER MOTIONS

As all of the petitioners in this case have either been dismissed or have been withdrawn, the remaining motions in this case are moot.**The Board holds that all outstanding motions are**

denied.

V. ORDER

1.Banigan's Petition for Review is **dismissed with prejudice.**

2.The County's Motion to Dismiss Union River for lack of standing is **granted; the case is dismissed with prejudice.**

3.Based on the attached stipulations, the County's Emergency Motion to Dismiss Consolidated Petitioners for Review [Cazin and Tribe] is **granted.**The Cazin and Tribe petitions are **dismissed with prejudice.**
4.All other motions before the Board are dismissed as moot.

This Order shall constitute final resolution of the above-captioned case; the hearing on the merits in this case is **stricken**.

So ORDERED this 29th day of July, 1996.
CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

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Joseph W. Tovar, AICP
Board Member

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Chris Smith Towne
Board Member

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[1] The legislature amended RCW 36.70A.280(2) in 1996 (*see* Substitute Senate Bill No. 6637).However, that amendment is not applicable to the present case.

[2] The Washington Supreme Court has recently adopted the same two-part test to determine whether a person has standing under RCW 34.05.530.*See St. Joseph Hospital v. Department of Health*, 125 Wn.2d 733, 739, 887 P.2d 891 (1995).

[3] With respect to the issues that the County and Cazin have stipulated as being dismissed without prejudice, the Board does not make a holding at this time as to whether Cazin is permitted to raise these issues outright in any subsequent appeal.Rather, if Cazin raises these issues in a future petition for review, such petition will be reviewed by the Board at that time, and any and all claims must satisfy the requirements set forth in the GMA for appeals of local government actions.