

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

CORRINE R. HENSLEY,	)	Case No. 96-3-0031
	)	
Petitioner,	)	<b>FINAL DECISION AND ORDER</b>
	)	
v.	)	
	)	
CITY OF WOODINVILLE,	)	
	)	
Respondent.	)	
	)	

---

**I. PROCEDURAL HISTORY**

On August 29, 1996, the Central Puget Sound Growth Management Hearings Board (the **Board**) received a Petition for Review from Corrine R. Hensley (**Hensley**). The matter was assigned Case No. 96-3-0031. Hensley challenges the City of Woodinville’s (the **City**) Ordinance 157 (the **Ordinance**) adopting a comprehensive plan (the **Plan**), alleging that it violates provisions of the Growth Management Act (the **GMA** or the **Act**).

On October 1, 1996, the Board held a prehearing conference, and on October 8, 1996, entered its “Prehearing Order,” setting forth the issues to be determined, a schedule for motions and briefing, and a date for the hearing on the merits. On October 11, 1996, the Board issued its “Order Modifying Case Schedule,” changing the deadlines for filing motions to supplement the record and preliminary exhibit lists. On November 22, 1996, the Board issued its “Order on Motion to Supplement and Second Order Modifying Case Schedule and Statement of Issues.”

On November 25, 1996, the Board received “Hensley’s Prehearing Brief and Motion to Take Notice” (**Hensley’s PHB**), with exhibits. The Motion concerned an amendment to Snohomish County County-wide Planning Policy (**CPP**) UG-2 (Attachment A).

On December 9, 1996, the Board issued its “Third Order Modifying Case Schedule,” changing the hearing date to January 9, 1997.

On December 16, 1996, the Board received “Respondent City of Woodinville’s Prehearing Brief” (**Woodinville’s PHB**), with exhibits.

On January 3, 1997, the Board received “Petitioner’s Reply to Respondent’s Prehearing Brief” (**Hensley’s Reply**).

On January 9, 1997, the Board held a Hearing on the Merits at its Seattle Office. Present were Board members Joseph W. Tovar, Edward G. McGuire, and Chris Smith Towne, presiding officer. Corrine R. Hensley appeared *pro se*, and the City was represented by Dawn L. Findlay. Also present for the City were Wayne Tanaka and Stephanie Cleveland. Court reporting services were provided by Cynthia LaRose of Robert H. Lewis & Associates, Tacoma.

## **II. FINDINGS OF FACT**

1. The City of Woodinville is situated in north King County, east of Interstate Highway 405; its northern boundary abuts Snohomish County. Incorporated on March 31, 1993, its 1995 population was 9,614. Exhibit (**Ex.**) Core Document (**CD**) F; Woodinville Supplemental (**Supp.**) Ex. 1, at 3 (City of Woodinville's Prehearing Brief in *Sky Valley v. Snohomish County [Sky Valley]*, CPSGMHB Case No. 95-3-0068 (**City's Sky Valley PHB**)). The city limits contains an area of 6.1 square miles. Office of Financial Management, Forecasting Division, *Washington State 1995 Data Book* 287 (1995).
2. On June 28, 1995, the Snohomish County Council adopted Ordinance 94-125, enacting its GMA Comprehensive Plan (**Snohomish County Plan**).
3. The Snohomish County Plan did not designate an Urban Growth Area (**UGA**) for the Maltby area of south Snohomish County. *See City's Sky Valley PHB*, at 16.
4. The City has not entered into an Interlocal Agreement for GMA planning with Snohomish County. *Woodinville's PHB*, at 27.
5. The City appealed Snohomish County's (the **County**) comprehensive plan (the **County's Plan**), requesting UGA designation for the Grace Urban Area portion of the Maltby Industrial Area. Originally Case No. 95-3-0060, consolidated with *Sky Valley*.
6. On November 27, 1996, the Snohomish County Council adopted Amended Ordinance 96-073, establishing a UGA for the unincorporated Maltby Industrial Area. *Woodinville's PHB*, Supp. Ex. 2.
7. The City's Comprehensive Plan Final Environmental Impact Statement (**FEIS**) was issued on January 17, 1996. Ex. CD H.
8. Woodinville adopted its Plan on June 24, 1996, by passing Ordinance 157. Ex. CD F (Plan); Ex. CD J (Ordinance).
9. The Plan contains three planning area boundaries: the City limits, the Woodinville Planning Area (**WPA**), and the Woodinville Survey Area (**WSA**). Ex. CD F, Fig. 1-1, 1-2.

10. The WPA is a thirty-six square-mile area bounded on the west by Interstate Highway 405, on the north by Maltby Road in Snohomish County, on the east by Avondale Road NE, and on the South by NE 124<sup>th</sup> and NE 122<sup>nd</sup>. The WPA is the area that the City anticipates will have some influence on the City's growth and development over the twenty-year planning period. Ex. CD F, Chapter 1, at 3 and Fig. 1-1.

11. The seven square-mile WSA includes all land within the City limits, as well as an area east of the Sammamish River (East Valley) in King County, and the Grace industrial area lying wholly within Snohomish County. The WSA was used to determine the carrying capacity and growth allocation needs as required by the Act. The WSA is divided into nine neighborhoods: Grace; The Wedge; North Industrial; Leota; Town Center; West Ridge; Valley Industrial; East Valley; and Tourist District. Ex. CD F, Chapter 1, at 3 and Fig. 1-2.

12. The Leota neighborhood is in the eastern portion of the city lying north of NE 175<sup>th</sup> Street, east of 148<sup>th</sup> Avenue, and west of 170<sup>th</sup> Avenue NE, and abutting the county line to the north. Ex. CD F, Chapter 1, Fig. 1-2.

13. The Plan graphically displays hydrologic areas (floodplains, wetlands, streams, and the Bear Creek Basin eastern boundary) for the WPA, and an accompanying chart describes the geographic extent of those areas. The text, under the heading "The Natural Environment," further describes the areas. Ex. CD F, Chapter 1, at 12-16 and Fig. 1-5.

14. The Capital and Public Facilities element of the Plan discusses surface water management, and notes that:

Completed basin planning affecting the Woodinville Planning Area has been limited to the Bear Creek Basin Plan. This is a multi-jurisdictional study which has developed a management policy and capital improvement plan for the basin. A portion of the Woodinville Planning Area is located within the cottage Lake and Bear/Evans sub-basins.

Along with the other affected agencies in the region, the City of Woodinville will participate in any future river system planning for the Sammamish River and basins within the service area. These plans might identify programs or capital projects necessary to protect or restore aquatic habitat and water quality, prevent flooding, or correct storage and conveyance deficiencies. Until these basin or river system plans are adopted, the City will work to maintain the existing surface water system in accordance with local, state, and federal regulations. Ex. CD F, Chapter 10, at 1-2.

15. Goal U-4 of the Utilities element provides that:

A watershed approach should be taken to surface water management, with responsibility shared among the counties and affected jurisdictions. This approach should emphasize

prevention of water quality degradation through education programs and implementation of Best Management Practices to reduce pollution entering surface waters.

Eleven policies, U-4.1 through 4.11, provide more detailed analysis of that approach. Ex. CD F, Chapter 11, at 4-5.

### **III. MOTIONS TO SUPPLEMENT AND STRIKE**

Hensley asks the Board to take official notice of amended Policy UG-2 of the CPPs. The City asks the Board to take official notice of County Ordinance 96-073, establishing the Maltby UGA. The Board will **take official notice** of amended CPP Policy UG-2 and Ordinance 96-073. The Board will also take official notice of the *Sky Valley* findings of fact related to the Maltby UGA.

The Board **denies** Hensley's request to strike references by the City to the Maltby annexation petition. *See* Hensley's Reply, at 2.

The City's Supplemental Exhibit 1, City's Sky Valley PHB, is **admitted**.

### **IV. ABANDONED ISSUES**

The Board's Prehearing Order reminds parties that "issues not briefed will be deemed to have been abandoned." Hensley has not briefed Legal Issues 2 and 4. Also, at the hearing on the merits, Hensley conceded abandonment of these issues. **The Board holds that Hensley has abandoned Legal Issues 2 and 4.**

### **V. DISCUSSION AND CONCLUSIONS**

#### **A. LEGAL ISSUE NO. 1**

***Did the City violate RCW 36.70A.110(1), (2) and .040(3)(c) by designating an urban growth area (UGA) boundary differing from the boundary established by a county?***

Woodinville is located within King County. The City's northern border abuts the Snohomish County line. Snohomish County Ordinance 96-073 designated a UGA for the Maltby Industrial Area (**Maltby UGA**) in response to the Board's remand order in *Sky Valley*. Finding of Fact 6. The Maltby UGA abuts Woodinville. Woodinville, in its Plan, has planned for an area in unincorporated Snohomish County, a portion of which includes part of the Maltby UGA. Ex. CD F, Fig. 1-1, 1-2, 3-1, 3-2, and 3-3.

Hensley claims that Woodinville has violated the GMA by "designating" a UGA (the **Grace area**) that is outside of its city limits, and that is outside of Snohomish County's designated Maltby UGA. Hensley's PHB, at 5. Woodinville argues that it has only proposed this UGA and

that it is appropriate to plan for the Grace area because residents within this area intend to annex to the City. Woodinville's PHB, at 2-4.

In designating UGAs, a county shall consult with the cities within its boundaries, and cities may propose the location of UGAs. RCW 36.70A.110(2); WAC 365-195-335(2). It is the county's duty to designate UGAs; cities have no authority to designate UGAs. RCW 36.70A.110(1); *see also, Agriculture for Tomorrow v. City of Arlington [AFT]*, CPSGMHB Case No. 95-3-0056, Final Decision and Order (Feb. 13, 1996), at 19, *and* RCW 36.70A.040(3)(c). Even if Woodinville intended to designate a UGA extending beyond the boundaries of the Maltby UGA designated by Snohomish County, and even if the City and County agreed to such designation in an interlocal agreement, only the County is authorized by the GMA to take such action, not the City.

**The Board holds that while a city may propose a UGA and consult on its designation, a city has no authority to designate UGAs under the Act.**

### **Conclusion No. 1**

Woodinville has not violated the requirements of RCW 36.70A.110(1), (2), or .040(3)(c) by proposing a UGA boundary different than the UGA established by the County, and in undertaking certain planning actions for the unincorporated areas external to the designated UGA.

### **B. LEGAL ISSUE NO. 2**

*Did the City violate RCW 36.70A.040(2), (3)(b) and (d), and .060 by adopting a Plan for portions of a UGA within a county in which the city is not located?*

Hensley did not brief or argue Legal Issue 2. At the hearing on the merits, Petitioner conceded that it had abandoned Legal Issue 2, therefore the Board will not consider it further.

### **Conclusion No. 2**

Hensley has abandoned Legal Issue 2.

### **C. LEGAL ISSUE NO. 3**

*Did the City violate RCW 36.70A.070(1) by failing to provide in the land use element of its Plan a review of drainage, flooding, and storm water run-off in the area and nearby jurisdictions?*

Each comprehensive plan must include a land use element. RCW 36.70A.070(1) provides in part:

Where applicable, the land use element shall review drainage, flooding, and storm water

run-off in the area and nearby jurisdictions and provide guidance for corrective actions to mitigate or cleanse those discharges that pollute waters of the state, including Puget Sound or waters entering Puget Sound. (Emphasis added.)

The Board has found this statutory provision “applicable” where a floodway and 100-year flood areas are within a city’s planning area. *See AFT*, at 27. In the present case, the City’s Plan shows that part of the Sammamish River floodplain and a portion of the Bear Creek Basin boundary are located within the City’s planning area. Ex. CD F, at Chapter 1, Figure 1-5. Therefore, RCW 36.70A.070(1)’s requirement to review drainage, flooding, and storm water run-off is applicable to Woodinville’s Plan. The Board must now determine what this requirement is.

The Act does not define “review”; however, the dictionary definition of review is:

1. To study or examine again.
2. To consider retrospectively.
3. To examine with an eye to correction or criticism. *Webster’s II New Riverside University Dictionary* 1006 (1988).

Therefore, in the context of RCW 36.70A.070(1), “shall review” requires jurisdictions to examine drainage, flooding, and storm water run-off. Section 070(1)’s subsequent language “and provide guidance” also suggests that this examination be “with an eye to correction or criticism.” The Board does not read .070(1) as necessarily requiring jurisdictions to conduct new studies to adequately review; the required review can be accomplished by considering studies already completed, and by referencing these studies in the land use element of the plan. Jurisdictions must review “the area and nearby jurisdictions.” This language reflects the fact that drainage, flooding, and storm water run-off are watershed basin concerns that are not confined by political or planning boundaries.

In addition to containing a review, the land use element of a comprehensive plan must “provide guidance for corrective actions to mitigate or cleanse those discharges that pollute waters of the state, including Puget Sound or waters entering Puget Sound.” As Petitioner has not alleged that the Plan fails to provide guidance, the Board need not address whether the Plan provides the required guidance.

Hensley’s argument addresses the question of whether Woodinville’s Plan contains the review of drainage, flooding, and storm water run-off that is required by .070(1). Petitioner claims that, although the Plan includes some goals and policies that apply to the Grace area, it contains no review of drainage, flooding, or storm water run-off for that area. Hensley’s PHB, at 9.

In response, the City identifies a number of policies in its Plan that it asserts provide the required review. Woodinville PHB, at 11-13. The City cites several policies of the Plan’s Land Use element as evidence of that review. These policies address future actions: LU-5.2 “provide incentives”; LU-5.3 “work with”; LU-5.5 “protect”; LU-5.6 “enhance and protect”; LU-5.10 “study”; LU-5.12 “maintain.” *See* Finding of Fact 14. While these cited policies evince the

City's intent to address the protection of natural systems in the future, these policies do not provide evidence of the review required by .070(1). The City also argues that the Plan discusses surface water drainage issues in the Capital and Public Facilities chapter of the Plan. *See* Findings of Fact 14 and 15. This capital facilities element states that the Bear Creek Basin Plan has been completed, but that the Sammamish River basin has yet to be studied. Although the Bear Creek Basin Plan may provide adequate review of the Bear Creek basin, there is no evidence in the record that the remainder of the City's drainage, flooding, and storm water run-off has been reviewed.

Woodinville's Plan does not contain an examination of drainage, flooding, and storm water run-off with an eye to correction or criticism; the Plan does not contain the review required by RCW 36.70A.070(1). **The Board holds that the City has not complied with the requirements of RCW 36.70A.070(1) because it has failed to provide in its land use element any indication that it reviewed drainage, flooding, and storm water run-off in the area and nearby jurisdictions.**

### **Conclusion No. 3**

The City's Plan does not meet the requirements of RCW 36.70A.070(1) because it fails to provide a review of drainage, flooding, and storm water run-off in the area and nearby jurisdictions in its land use element. Upon remand, the City will be directed to do so.

### **D. LEGAL ISSUE NO. 4**

*Did the City violate RCW 36.70A.110(2) by including in its Plan certain areas outside its UGA?*

Hensley did not brief or argue Legal Issue 4. At the hearing on the merits, Petitioner conceded that it had abandoned Legal Issue 4, therefore the Board will not consider it further.

### **Conclusion No. 4**

Hensley has abandoned Legal Issue 4.

### **E. LEGAL ISSUE NO. 5**

*Does the Plan, specifically LU-1, LU-2, LU-3.6, LU-3.7, LU-12.1, Sections 3.3, 3.4, 3.4.1, Future Land Use Map. Section 3.5, Appendix, T-1, T-1.2, T-4, T-4.1, Tables; and CF-3, CF-3.1, CF-4, Tables, violate the coordination and consistency requirements of RCW 36.70A.070 (1), (3)(e), (6), (6)(c)(iii), (d) and (e)?*

Hensley argues that certain Plan provisions are inconsistent, in violation of RCW 36.70A.070. A comprehensive plan "shall be an internally consistent document and all elements shall be

consistent with the future land use map” (FLUM). RCW 36.70A.070. More specifically, the GMA provides that the capital facilities element must include a requirement “to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent.” RCW 36.70A.070(3)(e).

The Board interprets “internal consistency” to mean that “[plan] provisions are compatible with each other . . . . In other words, one provision may not thwart another.” *West Seattle Defense Fund v. City of Seattle*, CPSGMHB Case No. 94-3-0016, Final Decision and Order (April 4, 1995), at 26. The question in the present case is whether there are provisions in the City’s Plan that are incompatible, and thus thwart, other provisions in the Plan.

However, before answering this question, the Board must first address the GMA context of the challenged Plan provisions. One of the fundamental premises of the Act is that UGAs are to be designated with sufficient land and densities to accommodate the urban area portion of the projected twenty years of countywide population growth. RCW 36.70A.110(2). In making these UGA determinations, counties are to include the cities within the county UGAs, and have the duty and the authority to allocate population to the cities. *Edmonds v. Snohomish County*, CPSGPHB Case No. 93-3-0005, Final Decision and Order (Oct. 4, 1993), at 23, 28. The county, as to the unincorporated portions of the UGA, and the cities, as to their respective portions of the UGA, then have a duty to adopt comprehensive plans that accommodate that allocated growth over the twenty-year life of their plans, including the provisions of public facilities and services.

The principle that jurisdictions must accommodate urban growth is supported by several goals of the Act. RCW 36.70A.020(12) provides:

Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards. (Emphasis added.)

The Board reads goals 1 and 2, and the other requirements of the Act, to direct cities to adopt FLUMs that show an urban pattern of growth over the twenty-year life of the plan. However, the GMA recognizes the importance of timing in accommodating urban growth. The Board reads Goal 12, and the requirements of RCW 36.70A.070(3) regarding capital facilities, to give cities the discretion to decide which specific areas of the city will be provided with public facilities and services to support development where and when such public facilities and services will be available, within the twenty-year planning horizon. Read together, these provisions of the Act clearly direct cities to plan for accommodating the allocated growth, including the provision of urban services, within the twenty-year planning period.

**The Board holds that the Act creates an affirmative duty for cities to accommodate the growth that is allocated to them by the county. This duty means that a city’s**

**comprehensive plan must include: (1) a future land use map that designates sufficient land use densities<sup>[1]</sup> and intensities to accommodate any population and/or employment that is allocated; and (2) a capital facilities element that ensures that, over the twenty-year life of the plan, needed public facilities and services will be available and provided throughout the jurisdiction's UGA.**

The Board has previously held that “that which is urban (i.e., exhibits a land use pattern that meets the definition of urban growth RCW 36.70A.030(14)) should be municipal (i.e., within an incorporated city).” *City of Poulsbo v. Kitsap County*, CPSGPHB Case No. 92-3-0009, Final Decision and Order (April 6, 1993), at 22. The corollary is “that which is municipal must be urban,” which is to say, must generally have residential densities at 4 du/acre or higher. The Act is clear in providing that urban governmental services<sup>[2]</sup> are to be available and provided in urban areas. This is in keeping with the role of cities as the primary providers of urban governmental services (RCW 36.70A.110(4) and .210(1)) and the GMA's planning goals to encourage development in urban areas where adequate facilities exist or can be provided in an efficient manner and to reduce the inappropriate conversion of undeveloped land into sprawling, low-density development. RCW 36.70A.020(1) and (2). Simply stated, Woodinville may not engender or perpetuate a near-term land use pattern (one-acre lots) that will effectively thwart long-term (beyond the twenty-year planning horizon) urban development within its boundaries. *See Robison v. Bainbridge Island*, CPSGMHB Case No. 94-3-0025, Final Decision and Order (May 3, 1995), at 30. Also, encouraging a pattern of new one-acre lots constitutes sprawl.<sup>[3]</sup> *See Bremerton v. Kitsap County*, CPSGMHB Case No. 95-3-0039, Final Decision and Order (Oct. 6, 1995), at 49.

The Board has previously stated that the only absolute consequence of including within urban areas a net residential density below 4 du/acre is that the plan will be subject to increased scrutiny for justification. *Benaroya v. City of Redmond*, CPSGMHB Case No. 95-3-0072, Final Decision and Order (March 25, 1996), at 33. In scrutinizing the City of Federal Way's Plan, the Board held that adequate justification could arise where environmentally sensitive systems are large in scope, their structure and functions complex, and their rank order high. *Litowitz v. City of Federal Way*, CPSGMHB Case No. 96-3-0005 (July 22, 1996), at 12. Here, Hensley has focused the Board's scrutiny on the Woodinville Plan's use of 1 du/acre densities in the Leota neighborhood, an area which comprises a significant part of the City's land mass. Finding of Fact 12. No evidence or argument was presented by Woodinville that there was an environmental justification for such a widespread pattern of one-acre lots. Instead, the City points to Policy LU-3.6 to argue that, in effect, lack of service capacity serves as justification for a FLUM with densities significantly below 4 du/acre.<sup>[4]</sup> The Board disagrees with the City.

With this background, the Board now addresses Legal Issue 5. Hensley argues that at least three

Plan provisions are inconsistent: the designation of the Leota Neighborhood as Low Density Residential (1-4 du/acre); Plan Goal U-3; and Plan Policy LU-3.6. Goal U-3, in the Utilities chapter of the Plan, provides:

Require connection to the wastewater system when development or subdivision of land occurs, only for land that has a density greater than one unit per acre, except when the connection is not feasible. Ex. CD F, chapter 11, at 4.

Policy LU-3.6 provides:

Allow densities higher than one dwelling unit per acre only when adequate services and facilities are available to serve the proposed development. Ex. CD F, Chapter 3, at 3.

The Act requires that urban services be made available and provided within UGAs. Generally, this means that cities will make available and provide those urban services. Therefore, to comply with the Act, Plan Goal U-3 must be read to mean that sewer service, an urban governmental service, will be provided throughout the City, except in those unusual circumstances where land is developed at a density of 1 du/acre or less. Goal U-3 recognizes the economic efficiency of providing sewer service only to those lots greater than 1 du/acre; this efficiency is encouraged by the Act. Because the Act requires that cities make available and provide urban services throughout their UGAs, the Board cannot construe Goal U-3 to perpetuate an inefficient pattern of one-acre lots. For the Board to conclude otherwise would sanction the inappropriate conversion of undeveloped land into sprawling low-density development, which would effectively thwart long-term urban development within the City's boundaries. *See* RCW 36.70A.020(2).

In light of this interpretation of Goal U-3, **the Board holds that LU-3.6 is inconsistent with Goal U-3. Policy LU-3.6 allows densities greater than 1 du/acre only where adequate services and facilities are available.** This policy reads as though new development cannot exceed 1 du/acre unless sewer service is available -- this is inconsistent with Goal U-3 and the intent of the Act.

### **Conclusion No. 5**

Policy LU-3.6 is inconsistent with Goal U-3, therefore, the Plan is internally inconsistent in violation of RCW 36.70A.070(1). Policy LU-3.6 will be remanded with instructions for the City to bring the Plan into compliance.

### **F. LEGAL ISSUE NO. 6**

***Did the City violate RCW 36.70A.070(2)(c) by failing to identify sufficient land for housing needs and/or to make adequate provisions for existing and projected needs of all economic segments of the community?***

The GMA mandates that comprehensive plans contain a housing element. RCW 36.70A.070(2) provides that this housing element must:

- (c) identif[y] sufficient land for housing, including, but not limited to, government-assisted housing, housing for low-income families, manufactured housing, multifamily housing, and group homes and foster care facilities; and
- (d) make[ ] adequate provisions for existing and projected needs of all economic segments of the community.

Hensley asserts that “[t]he City’s plan . . . does nothing to identify how many, where, and financing available to the City to assist families in need, special needs, and other low income families.” Hensley’s PHB, at 16. Hensley argues that, although Policy H-1.1 allows manufactured housing and mobile home parks, the Plan violates .070(2) because the FLUM does not specifically identify where manufactured housing and mobile home parks are to be located.

[5] Hensley’s PHB, at 15-16.

The City argues that the Plan identifies sufficient land for housing: “Woodinville has provided enough land zoned at higher densities (> 12 dwelling units/acre) for all low income and moderate income households anticipated for the City of Woodinville by King County in the countywide policies.” Woodinville’s PHB, at 21 (quoting Ex. CD F, Chapter 4, Section 4.1). Hensley has not shown that the Plan provisions cited by the City do not identify sufficient land for housing as required by RCW 36.70A.070(2).

In addition, Hensley argues that Plan Policy H-3.3 is in conflict with Plan Goal H-3. Hensley’s PHB, at 16. Policy H-3.3 provides:

Support development of housing that serves local residents and is located elsewhere on the Eastside.

Goal H-3 provides:

To provide housing opportunities in Woodinville for people with special needs.

Hensley asserts that if the City is supporting special needs housing only outside of the City, then “opportunities in Woodinville” cannot be provided for people with special needs. The City points out that Policy H-3.3 is but one of several policies contained within Goal H-3. The City also points out that CTED’s recommendations for meeting the requirements of the Act’s housing element include recognition that “in some cases, it may be appropriate for a jurisdiction to provide assistance for the location of affordable housing elsewhere.” Woodinville’s PHB, at 22 (quoting WAC 365-195-310(2)(f)) (emphasis omitted).

While Petitioner shows the desirability of having the County and City work together, it is not

required by the Act. **The Board holds that Petitioner has not met its burden to show, by a preponderance of the evidence, that the City has failed to identify sufficient land for housing needs or to make adequate provisions for existing and projected needs of all economic segments of the community.**

### Conclusion No. 6

Petitioner has not met its burden to show, by a preponderance of the evidence, that the City has failed to comply with RCW 36.70A.070(2)(c) by failing to identify sufficient land for housing needs or to make adequate provisions for existing and projected needs of all economic segments of the community.

### G. LEGAL ISSUE NO. 7

*Does the Plan, specifically Chapter One, Introduction; Chapter Two, Overview of Policies and Guidelines Comparison; Chapter Three, Land Use Policies including future land use map; Chapter Eight, Community Design; Chapter Nine, Transportation; Chapter Ten, Capital and Public Facilities; and Chapter Eleven, Utilities, violate RCW 36.70A.100, requiring the City's Plan to be coordinated and consistent with the comprehensive plans of adjacent jurisdictions?*

RCW 36.70A.100 provides:

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. (Emphasis added.)

Section 100 requires coordination and consistency among comprehensive plans.<sup>[6]</sup> The burden rests on a petitioner to identify those provisions of the challenged comprehensive plan that are uncoordinated or inconsistent. To do this, Hensley must identify the provision in the City's Plan and explain how it is uncoordinated with or inconsistent with a provision in the another jurisdiction's comprehensive plan.

Hensley complains that the City has not entered into an interlocal agreement with Snohomish County regarding the implementation of the GMA. Hensley's PHB, at 18-19. From a GMA perspective, such an agreement could establish a forum for discussion and coordination and would therefore be desirable. However, such an agreement is not required by the Act. Hensley also complains that the Plan "is without coordination with citizens and jurisdictions adjacent to the City." Hensley's PHB, at 19-20. However, RCW 36.70A.100 requires that comprehensive plans be coordinated and consistent; this provision does not require a jurisdiction's comprehensive plan to be coordinated with the desires of citizens living adjacent to the

jurisdiction. Furthermore, Hensley has not identified specific provisions of the City's Plan that conflict with specific provisions of the County's Plan or the plan of another jurisdiction.

Hensley asserts that the record contains almost no evidence of communication between Snohomish County and Woodinville and that this deficiency demonstrates uncoordinated planning. Hensley's PHB, at 22-23. Hensley also offers several other "examples" of uncoordinated and inconsistent planning. However, most of these examples are not plan-to-plan comparisons. Again, Hensley has not shown how the City's Plan is uncoordinated or inconsistent with the County's Plan in violation of RCW 36.70A.100.

The only plan-to-plan comparison offered by Petitioner is a comparison of how the City's FLUM and the County's FLUM describe an area of land within Snohomish County and outside of Woodinville's city limits. Hensley's PHB, at 23-36. Hensley offers five specific examples to show that the County and City FLUM's are uncoordinated and inconsistent. Hensley alleges that:

1. the City's FLUM shows UGA boundaries within the County that are not shown on the County's FLUM;
2. the City's FLUM shows an area as Public/Institutional where the County's FLUM shows the area as a mineral land site;
3. the City's FLUM shows a certain area as low density residential where the County's FLUM shows the area as rural conservation;
4. the City's FLUM shows a certain area as industrial where the County's FLUM shows the area as residential RC; and
5. the City's FLUM includes Low Density Residential of up to 4 du/acre where the County's FLUM includes Low Density Residential of 4-6 du/acre.

A city may plan for areas outside of its city limits if it chooses to do so; however, such planning has no GMA effect. *See AFT*, at 8-9. The only planning of consequence, for implementation purposes, is the City's planning within its city limits. Even if the City of Woodinville and Snohomish County had an interlocal agreement regarding the unincorporated area outside the city limits, as Hensley urges, it would have no GMA effect unless and until the County designated the UGA. Clearly, the planning in this area must be coordinated and consistent between the jurisdictions. However, even in this situation, unless and until the area was annexed to the City, the area would be subject to the County's jurisdiction.

Nonetheless, to evaluate the coordination and consistency requirements of .100, it is necessary to compare the City's Plan within its city limits to the County's Plan for areas adjacent to the City. The City's FLUM shows industrial land immediately south of the County's Maltby UGA. The County's FLUM shows urban industrial land in the Maltby UGA immediately north of the City's industrial land. Contrary to Hensley's allegations, a comparison of the two FLUMs does not

reveal lack of coordination and consistency.

**The Board holds that Petitioner has not met its burden to show, by a preponderance of the evidence, that the City's Plan is not coordinated and consistent with plans of adjacent jurisdictions as required by RCW 36.70A.100.**

### **Conclusion No. 7**

Petitioner has not met its burden to show, by a preponderance of the evidence, that the City's Plan is not coordinated and consistent with plans of adjacent jurisdictions in violation of RCW 36.70A.100.

### **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 orders:

The City of Woodinville is **in compliance** with the requirements of the Growth Management Act, **except**:

1. The Land Use element does not provide a review of drainage, flooding, and storm water run-off in the area and nearby jurisdictions. The Land Use element is **remanded** to the City with direction to provide the required review by reference or other means consistent with the Act as interpreted by the Board's holdings and conclusions above.
2. Land Use Policy LU-3.6 is **remanded** to the City with instructions to delete or amend it consistent with the Act as interpreted by the Board's holdings and conclusions above.

Pursuant to RCW 36.70A.300(1)(b), the Board directs the City to comply with this Final Decision and Order no later than 5:00 p.m. on Friday, August 22, 1997. The City shall provide the Board with an original and three copies of a Statement of Compliance indicating what steps it took to comply with this Order, and serve a copy on Petitioner, by 5:00 p.m. on Friday, August 29, 1997.

So ORDERED this 25th day of February, 1997.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

---

Edward G. McGuire, AICP

## Board Member

---

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] This Board has held that residential densities of 4 dwelling units per acre (du/acre) or higher are clearly urban. *Bremerton v. Kitsap County*, CPSGMHB Case No. 95-3-0039, Final Decision and Order (Oct. 6, 1995), at 50.

[2] RCW 36.70A.030(16) provides:

“Urban governmental services” include those governmental services historically and typically delivered by cities, and include storm and sanitary sewer systems, domestic water systems, street cleaning services, fire and police protection services, public transit services, and other public utilities associated with urban areas and normally not associated with non-urban areas.

[3] This does not mean that the existing one-acre lots within the City must be converted or platted as smaller lots. What it does mean is that any future development activity, primarily subdivision and short subdivision activity, may not be in a pattern of one-acre lots.

[4] The Board notes that the FLUM shows 1-4 du/acre. The discussion in the text above presumes a range of densities up to 4 du/acre. If the FLUM were to show only 1 du/acre, this would be a clear violation of the Act.

[5] Hensley states: “It would have added convenience to this planning process, if the City would have adopted a zoning code to implement this Comprehensive Plan.” Hensley’s Reply, at 8. However, the zoning code is not before the Board at this time.

[6] It is the CPPs that “provide a policy framework for cities within the county to ensure that the coordination and consistency mandates of RCW 36.70A.100 are met.” *Benaroya v. City of Redmond*, CPSGMHB Case No. 95-3-0072, Final Decision and Order (March 25, 1996), at 13 (emphasis added); *see also, Snoqualmie v. King County*, CPSGPHB Case No. 92-3-0004, Final Decision and Order (March 1, 1993), at 8. However, since Woodinville is not within Snohomish County, in whole or in part, the County’s CPPs would not necessarily provide a framework to ensure coordination and consistency between Snohomish County and Woodinville.