CENTRAL PUGET SOUND
GROWTH MANAGEMENT HEARINGS BOARD
STATE OF WASHINGTON

ALPINE, et al., Petitioners, v. KITSAP COUNTY, Respondent. and PORT BLAKELY TREE FARMS, et al., Participants.	**Consolidated** **Case No. 98-3-0032c** **ORDER ON COMPLIANCE WITH REMAND PARAGRAPHS 3.a, 3.b, 3.c, 3.g and 3.h in *ALPINE***

i. Procedural Background

On February 8, 1999, the Central Puget Sound Growth Management Hearings Board (the **Board**) issued its "Order Rescinding Invalidity in *Bremerton* and Final Decision and Order in *Alpine*" (the ***Alpine* FDO**) in Coordinated Cases 95-3-0039c and 98-3-0032c. In the *Alpine* FDO, the Board found the Kitsap County (the **County**) comprehensive plan (the **Plan**) and development regulations in noncompliance with the requirements of the Growth Management Act (**GMA** or the **Act**). The Board directed the County to take action on Remand Items 3.a through 3.h. The FDO provided in part:

> 3. In order for the County to achieve compliance with the GMA, as set forth in this Order Rescinding Invalidity in *Bremerton* and Final Decision and Order in *Alpine*, the Board **remands** specified provisions of Kitsap County's Plan and Development Regulations, with the following directions:
>
> > *a) Regarding the lack of public participation surrounding the deletion of Section 455.020 (Exception to Lot Sizes) from the Zoning Code (Ordinance No. 216-1998), the County is directed to provide public participation on this issue. The County shall provide notice, pursuant to RCW 36.70A.035, and conduct a public hearing on the proposed Zoning Code Section 455.020, entitled "Exception to Lot*

Sizes." Following the public hearing, the County may, or may not, choose to take legislative action on the substance and merits of the issue. In its Statement of Compliance, the County shall provide the Board with a copy of the published public notice and the minutes of the meeting(s) where public participation was provided on the issue. The Board is only directing the County to address procedural deficiencies in adoption of its Zoning Code; no substantive amendment is required by this remand action. If the County chooses to amend its Zoning Code as a result of this public process, the Zoning Code shall be deemed remanded for appropriate action.

b) The Forest Lands Section of the Resource Lands Chapter of the Plan is remanded. Regarding the lack of decision on forest lands of long-term commercial significance, the County is directed to decide, consistent with the goals and requirements of the GMA and this Order, whether it does, or does not, have forest lands of long-term commercial significance within its borders. The County shall record its decision through a Plan amendment that either designates such lands and depicts them on a map, or declares that no such lands are present in Kitsap County.

c) The County's Land Use Element, specifically UGA-13 and associated text on pp. 19-26 are remanded. Regarding the County's joint planning framework for unincorporated areas within designated UGAs and its potential effect on city annexations, the County is directed to clarify its stated intent, that such joint planning within designated UGAs is voluntary and consensual. The County shall accomplish this revision through Plan amendment.

d) The 1998 Plan, specifically text, including maps and development regulations relating to the Port Gamble UGA, is remanded. Regarding the designation of the Port Gamble UGA, the County is directed to delete the UGA and subsequent "Urban" designations where they appear in the Plan and Plan maps, and redesignate the area with an appropriate "Rural" or other non-Urban land use designation. The Zoning Code map and any development regulations affected by the redesignation shall also be amended to maintain consistency with the Plan. The County shall accomplish these corrections through a Plan amendment and amendments to the appropriate development regulations.

e) The 1998 Plan, specifically text, maps and development regulations as they relate to the Screen property, is remanded. Regarding the designation of the Screen property as IRF, the County is directed to delete the IRF designation and redesignate the property with an appropriate "Rural" or other non-Urban land use designation. The Zoning Code map and any other development regulation affected by the redesignation shall also be amended to maintain consistency with the Plan. The County shall accomplish these corrections through a Plan

amendment and amendments to the appropriate development regulations.

f) The County's Capital Facilities Element's six-year financing plan is remanded. Regarding the County's selection of a six-year financing plan period, the County is directed to update the County's six-year financing plan to cover at least the six-year period corresponding with the adoption date of the Plan (1998-2004). The County shall accomplish this correction and update through a Plan amendment.

g) The Transportation Appendix's Figure TR-29 is remanded. The Board directs the County to correct the inconsistency between the correct cost estimates in the Plan text at A-312 and the cost estimates depicted in Figure TR-29. The County shall accomplish this through Plan amendment.

h) The County's Economic Development Appendix is remanded. Regarding the County's admission that it incorrectly defined "lot coverage," the County will correct and clarify its definition.

Alpine FDO, at 86-88. (Emphasis added.)

On May 20, 1999, the Board received from the County a "Notice of Actions Taken to Comply with Remand Order on Joint Planning, "Screen Property", Transportation Figure, "Lot Coverage" Definition and Public Participation Notice for Zoning Ordinance Section," attached to which was Ordinance 234-1999.[1]

On May 21, 1999, the Board issued a "Prehearing Order, Order on Motions to Intervene and Order on Motion for extension in Screen and Precompliance Hearing Order Re: Forestry Issues in *Alpine*" (the **May 21, 1999 *Alpine* Compliance Hearing Order**), which, among other things, established that remand paragraph 3.b would be coordinated with and decided concurrently with a new case titled *Screen v. Kitsap County*, CPSGMHB Case No. 99-3-0006c (*Screen I*). May 21, 1999 *Alpine* Compliance Hearing Order, at 9.[2]

On July 19, 1999, the Board received "Revised Notice of Actions Taken to Comply with Remand Order on Joint Planning, "Screen Property", Transportation Figure, "Lot Coverage" Definition, and Public Participation for Zoning Ordinance Section."

On August 13, 1999, the Board issued a "Prehearing Order for *Screen II* and Notice of Coordinated Schedule for Briefing and Compliance Hearing for Portion of *Alpine*" (the **August 13, 1999 *Alpine* Compliance Hearing Order**) which, among other things, established that remand paragraph 3.e would be coordinated with and decided concurrently with a new case titled *Screen v. Kitsap County*, CPSGMHB Case No. 99-3-0012c (*Screen II*). August 13, 1999 *Alpine*

Compliance Hearing Order, at 7.[3]

On August 17, 1999, the Board received "Kitsap County's Notice of Actions Taken to Comply with Remand Order on Port Gamble and Capital Facilities Plan" with attached Ordinance 236-1999.

On September 3, 1999, the Board issued a "Notice of Compliance Hearing for All Non Forestry-Related Remand Items (the **September 3, 1999 *Alpine* Compliance Hearing Notice**) which set a compliance hearing for *Alpine* remand paragraphs 3.a, 3.c, 3.d, 3.f, 3.g and 3.h. September 3, 1999 *Alpine* Compliance Hearing Notice, at 6.

On September 17, 1999, the Board issued a "Notice of Amended Schedule for Compliance Hearing on Port Gamble and Capital Facilities Element Portions of Remand Order," (the **September 17, 1999 Notice of Amended Compliance Schedule**) which established that remand paragraphs 3.d and 3.f would be coordinated with and decided concurrently with a pending new case challenging the adoption of the legislation adopted by the County to address these items.

On October 22, 1999, the Board received "Kitsap County's Compliance Hearing Brief on Remand Items 3.a (Zoning Ordinance), 3.c (Joint Planning), 3.g (Transportation Figure), and 3.h (Definition of 'Lot Coverage')."

On November 3, 1999, commencing at 9:30 a.m., at the Poulsbo Fire Station in Poulsbo, Washington, the Board conducted a compliance hearing conference on the above captioned portions of the *Alpine* case. Present for the Board were Edward G. McGuire and Joseph W. Tovar, presiding officer. Also present was Andrew Lane, the Board's contract law clerk. Representing the County was Sue Tanner. No other parties to the *Alpine* case were present.

On November 8, 1999, the Board issued a "Prehearing Order and Order on Motion to Intervene in *Burrow* and Pre-Compliance Hearing Order in Portion of *Alpine*" (the **November 8, 1999 *Alpine* Pre-Compliance Hearing Order**) which established that remand paragraphs 3.d and 3.f would be coordinated with and decided concurrently with a new case titled *Burrow v. Kitsap County*, CPSGMHB Case No. 99-3-0018. November 8, 1999 *Alpine* Pre-Compliance Hearing Order, at 4.

II. FINDING OF COMPLIANCE

The Board, having reviewed its Final Decision and Order, the above reference documents and the file in this case, concludes that Kitsap County **has complied** with Remand Paragraphs 3.a, 3.c, 3.g and 3.h. of the *Alpine* FDO. As noted above, the Board has previously concluded that the County has also complied with Remand Paragraph 3.b and that Remand Paragraph 3.e is **moot**. The Board therefore issues a **Finding of Compliance** to the County with respect to Remand

Paragraphs 3.a., 3.b, 3.c., 3.g and 3.h.[4]

So ORDERED this 22nd day of November, 1999.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

_____
Joseph W. Tovar, AICP
Board Member

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Edward G. McGuire, AICP
Board Member

NOTICE: This is a final order for purposes of appeal. Pursuant to WAC 242-02-832, a Motion for Reconsideration may be filed within ten days of service of this final order.

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[1] The title of Ordinance 234-1999 was "Amended the Comprehensive Plan, Land Use Map and Zoning Ordinance and Map Pursuant to an Order of the Central Puget Sound Growth Management Hearings Board in Alpine v. Kitsap County, CPSGMHB No. 98-3-0032c, to: clarify language on joint planning, reaffirm the designation of the "Screen property" as Interim Rural Forest; correct a transportation figure and definition of "lot coverage" in the Plan; and clarify language in the Zoning Ordinance on the use of non-conforming lots."

[2] The Board subsequently determined that the County has complied with Remand Paragraph 3.b. *See* Order on Compliance Re: Forestry Issues in *Alpine* and Final Decision and Order in *Screen* (*Screen I*), entered on October 11, 1999.

[3] The Board subsequently determined that Remand Paragraph 3.e is moot. *See* Order on Compliance with Remand Paragraph 3.e in *Alpine* and Final Decision and Order in *Screen* (*Screen II*), entered on November 22, 1999.

[4] As noted, *supra*, the question of the County's compliance with Remand Paragraphs 3.d and 3.f will be coordinated and decided concurrently with CPSGMHB Case No. 99-3-0018, *Burrow v. Kitsap County*.