

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

City of Tacoma,)	
)	
)	Consolidated Case No. 99-3-0023c
Petitioner,)	
)	FINAL DECISION AND ORDER
v.)	
)	<i>(Tacoma II)</i>
Pierce County,)	
)	
Respondent.)	
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I. PROCEDURAL BACKGROUND

On December 22, 1999, the Central Puget Sound Growth Management Hearings Board (the **Board**) received a Petition for Review (**PFR**) from the City of Tacoma (**City** or **Tacoma**). The matter was assigned case No. 99-3-0021. The City challenges Pierce County’s (**County**) adoption of Ordinance No. 99-93S2, specifically, the County’s designation of Rural Areas of More Intensive Development (**RAIDs**). The basis for the challenge is noncompliance with several provisions of the Growth Management Act (**GMA** or **Act**).

On January 26, 2000, the Board received a “Notice of Association of Counsel” from Thomas B. Bjorgen for Respondent Pierce County. On January 27, 2000, the Board received Respondent’s Index.

On January 27, 2000, the Board conducted the PHC at the Financial Center, Seattle. Board member Edward G. McGuire, Presiding Officer in this matter, conducted the conference. Kyle Crews represented Petitioner City of Tacoma. Lloyd Fetterly and Thomas J. Bjorgen represented Respondent Pierce County. Board member Lois North and Andrew Lane, law clerk, attended the conference. Donna Stenger and Cheryl Carlson were also in attendance.

On March 10, 2000, the Board issued the Prehearing Order ^[1] (**PHO**), establishing the Final Schedule and the Statement of the Legal Issues.

On April 5, 2000, the Board received Petitioner’s “Prehearing Brief with Exhibits.”

On April 26, 2000, the Board received Respondent’s “Prehearing Brief with Exhibits.”

On May 3, 2000, the Board received the “Reply Brief of the Petitioner.”

On Monday, May 8, 2000, the Board conducted the Hearing on the Merits in Suite 1022 of the Financial Center, 1215 Fourth Avenue, Seattle, Washington. Present for the Board were Board Members Edward G. McGuire, Joseph W. Tovar and Lois H. North, Presiding Officer. Also present was the Board’s contract law clerk, Andrew Lane. Representing Tacoma was Kyle Crews. Representing Pierce County was Thomas J. Bjorgen. Lloyd Fetterly was in attendance. Robert H. Lewis of Tacoma, Washington provided Court reporting services.

II. FINDINGS OF FACT

1. The City of Tacoma handled the sewer discharge from the Pederson Farms property for approximately fifty years. The Pederson property is entirely within the City of Tacoma’s designated sewer service area. The contract for sewer service between Pederson Farms and the City of Tacoma ended with the sale of the property in 1997.
2. The Pierce County Council enacted Ordinance No. 99-93S2 on October 5, 1999, adopting amendments to the Comprehensive Plan. This ordinance included amendments establishing a “RAID” on the Pederson property (**Amendment M-7**), setting criteria and standards governing the establishment of RAIDs (**Amendment T-14**), and allowing RAIDs to be served by a sanitary sewer (**Amendment T-2**).
3. Amendment T-2 amends the Land Use, Rural, and Utilities Elements of the Plan. The amendments to the Rural Element modify the provisions regarding sewer service in rural areas:

RUR 19A.40.040 Rural Services

RUR Objective 4. Preserve the rural way of life by not providing urban levels of services within rural areas.

A. Sanitary sSewers interceptors shall only extend outside of an Urban Growth Area (i.e., into rural areas), where:

- (1) Sewer service will remedy groundwater contamination and other health problems, as determined by the local Health Department, by replacing septic systems and community on-site sewage systems; or
- (2) A formal binding agreement to serve an approved plan development was made prior to the establishment of an Urban Growth Area; or
- (3) A sanitary sewer will convey wastewater originating within a designated Urban Growth Area to sewerage facilities in another designated Urban Growth Area and, except as provided in this section, no connection to the interceptor line is permitted; or
- (4) Sewer service will serve only a rural area of more intensive development in accordance with the County-Wide Planning Policies.

Other principles governing sewers are found in the Utilities Element – Sewer Service and Wastewater Treatment.

Ex. VI, D, 2 (Ordinance 99-93S2, Ex. “A,” at 21) (added language underlined, deleted language shown with strikethrough).

4. Amendment T-14 amends the Land Use and Rural Elements of the Plan. The amendments add a new section to the Rural Element establish the RAID designation criteria:

RUR 19A.40.070 Rural Areas of More Intensive Development (RAIDs)

Objective In limited circumstances allow for areas of more intensive rural development which recognize existing development patterns and services delivery.

A. Such areas shall be characterized by existing uses established prior to July 1, 1990 and shall not extend beyond a logically defined outer boundary of the proposed development area based on the predominantly built environment as to prohibit a new pattern of commercial/industrial development or low-density sprawl. When defining the outer boundary the County shall consider: the need to preserve the character of existing natural neighborhoods and communities; physical boundaries such as bodies of water, streets and highways, and land forms and contours; and the prevention of abnormally irregular boundaries.

B. The portions of the proposed area shall consist of infill, development, or redevelopment of existing commercial, industrial, residential, or mixed-use areas. An area proposed to develop under this provision must meet all of the following criteria:

1. The proposed site must have existing sewer service and be served by a Group “A” water system.
2. The proposed area must be abutting a county arterial or state highway on at least one side.
3. The proposed area shall be at least 5 acres in size.
4. At least 50% of the proposed area is considered impervious surface.
5. The proposed site must provide adequate buffer areas to protect surrounding rural properties.

C. As community planning processes progress throughout the county, each community planning area may define criteria in which a Rural Area of More Intensive Development is created or prohibit the concept entirely. For areas of the County where a community plan has not been prepared or updated after January 1, 2000, the provisions contained in sections A and B above shall apply.

D. Uses in Rural Areas of More Intensive Development (RAID) shall be defined on a case by case basis as part of the legislative adoption process for the RAID. For consideration purposes, the Rural Activity Center (RAC) uses

are to be generally consistent with this desired objective.

Ex. VI, D, 2 (Ordinance 99-93S2, Ex. “A,” at 46-47).

5. Amendment M-7 is a map amendment that identifies the County’s *only* RAID designation. This RAID consists of 5 parcels, or portions thereof. The RAID is at the intersection of Waller Road East and 72nd Street East. Ex. VI, D, 2 (Ordinance 99-93S2, Ex. “B,” at 4).

III. standard of review

Pursuant to RCW 36.70A.320(1), Pierce County’s Ordinance 99-93S2 is presumed valid upon adoption. The burden is on Petitioner to demonstrate that the actions taken by the County are not in compliance with the requirements of the GMA. RCW 36.70A.320(2).

Pursuant to RCW 36.70A.320(3), the Board “shall find compliance unless it determines that the action taken by [the County] is clearly erroneous in view of the entire record before the board and in light of the goals and requirements of [the GMA].” For the Board to find the County’s actions clearly erroneous, the Board must be “left with the firm and definite conviction that a mistake has been made.” *Dep’t of Ecology v. PUD 1*, 121 Wn.2d 179, 201 (1993).

IV. DISCUSSION AND CONCLUSIONS

Petitioner City of Tacoma challenges text and map amendments to Pierce County’s comprehensive plan (**Plan**). The County amended its Plan by creating a new rural land use designation of Rural Areas of More Intensive Development (**RAID**). This was accomplished through the adoption of text amendment T-14. This land use designation is fashioned after a 1997 amendment to RCW 36.70A.070(5). Text amendment T-2 amends the Land Use, Rural, and Utilities Elements of the Plan. Where the Plan previously allowed for rural connection to sanitary sewer lines only in the event of health or environmental problems or when a binding agreement^[2] to provide sewer service to a rural area was made prior to UGA designation, T-2 amended the Plan to also allow RAIDs to connect to sanitary sewers. Map amendment M-7 amends the Plan’s land use map to designate specific lands as a RAID.

Petitioner alleges that the Plan amendments do not comply with the GMA’s requirements for rural lands; that the amendments do not comply with the GMA requirements for urban growth areas; that the amendments are not consistent with the County-wide Planning Policies; and that the amendments are inconsistent with the Plan. Each allegation is addressed below.

Discussion and Conclusion of Legal Issue 1

Legal Issue 1: Did Pierce County fail to comply with RCW 36.70A.070(5)(d) when it adopted Ordinance 99-93S2, because:

- a) The establishment of a new RAID land use designation for Rural Areas of More Intensive Development (RAIDs) and related provisions found in the T-2 and T-14 text amendments and the M-7 map amendment do not comply with the provisions of RCW 36.70A.070(5)(d); and**
- b) Even if the County's new RAIDs provisions as noted above comply with RCW 36.70A.070(5)(d), the area mapped as a RAID (M-7 amendment) does not comply with the T-2 and T-14 amendments thereby creating an internal inconsistency (RCW 36.70A.070 (preamble)) between the plan text and the mapped RAID.**

Compliance with RCW 36.70A.070(5)(d)

Petitioner first argues that T-2, T-14, and M-7 do not comply with the requirements of RCW 36.70A.070(5)(d), which provides:

Each comprehensive plan shall include a plan, scheme, or design for each of the following:

...

(5) Rural element. Counties shall include a rural element including lands that are not designated for urban growth, agriculture, forest, or mineral resources. The following provisions shall apply to the rural element:

...

(d) Limited areas of more intensive rural development. Subject to the requirements of this subsection and except as otherwise specifically provided in this subsection (5)(d), the rural element may allow for limited areas of more intensive rural development, including necessary public facilities and public services to serve the limited area as follows:

- (i) Rural development consisting of the infill, development, or redevelopment of existing commercial, industrial, residential, or mixed-use areas, whether characterized as shoreline development, villages, hamlets, rural activity centers, or crossroads developments. A commercial, industrial, residential, shoreline, or mixed-use area shall be subject to the requirements of (d)(iv) of this subsection, but shall not be subject to the requirements of (c)(ii) and (iii) of this subsection. An industrial area is not required to be principally designed to serve the existing and projected rural population;
- (ii) The intensification of development on lots containing, or new development of, small-scale recreational or tourist uses, including commercial facilities to serve those recreational or tourist uses, that rely on a rural location and setting,

but that do not include new residential development. A small-scale recreation or tourist use is not required to be principally designed to serve the existing and projected rural population. Public services and public facilities shall be limited to those necessary to serve the recreation or tourist use and shall be provided in a manner that does not permit low-density sprawl;

(iii) The intensification of development on lots containing isolated nonresidential uses or new development of isolated cottage industries and isolated small-scale businesses that are not principally designed to serve the existing and projected rural population and nonresidential uses, but do provide job opportunities for rural residents. Public services and public facilities shall be limited to those necessary to serve the isolated nonresidential use and shall be provided in a manner that does not permit low-density sprawl;

(iv) A county shall adopt measures to minimize and contain the existing areas or uses of more intensive rural development, as appropriate, authorized under this subsection. Lands included in such existing areas or uses shall not extend beyond the logical outer boundary of the existing area or use, thereby allowing a new pattern of low-density sprawl. Existing areas are those that are clearly identifiable and contained and where there is a logical boundary delineated predominately by the built environment, but that may also include undeveloped lands if limited as provided in this subsection. The county shall establish the logical outer boundary of an area of more intensive rural development. In establishing the logical outer boundary the county shall address (A) the need to preserve the character of existing natural neighborhoods and communities, (B) physical boundaries such as bodies of water, streets and highways, and land forms and contours, (C) the prevention of abnormally irregular boundaries, and (D) the ability to provide public facilities and public services in a manner that does not permit low-density sprawl;

(v) For purposes of (d) of this subsection, an existing area or existing use is one that was in existence:

(A) On July 1, 1990, in a county that was initially required to plan under all of the provisions of this chapter; . . .

At the hearing on the merits, Tacoma abandoned argument that the sewer-related amendments of T-2 failed to comply with RCW 36.70A.070(5)(d); therefore, the Board will limit its analysis to whether amendments T-14 and M-7 comply with RCW 36.70A.070(5)(d). Amendment T-14 sets out the County's RAID designation criteria and amendment M-7 amends the Plan's land use map to designate specific lands as a RAID.

The County's arguments about the propriety of its RAID designation evidence several fundamental misapprehensions. Whether intended or not, there is some irony in the County's coinage and use of the term "RAID" to describe its rural designation pursuant to RCW

36.70A.070(5)(d)(iv). What the Act contemplates is flexibility for counties, in certain circumstances and subject to careful restrictions, to “round off” with logical outer boundaries “limited areas of more intensive rural development” (what the Board has labeled **LAMIRDS**). However, simply because an unincorporated parcel was urbanized as of July 1, 1990, does not mean that it is appropriate to designate it as a LAMIRD. The County’s spacing criteria for RACs and RNCs indicates that it grasps the concept of a “central-place,” the idea that a commercial center serves a surrounding rural hinterland. The placement of its RAID less than 400 feet from the UGA flies in the face of this “central-place” theory. The location of the Pederson property immediately adjacent to the UGA makes it a candidate not for LAMIRD designation, but potentially for UGA expansion.

The County also seems to suggest that LAMIRD designations authorized in 1997 are simply smaller and more limited rural centers than its pre-1997 rural designations (i.e., Rural Activity Centers, Rural Neighborhood Centers, etc.). If so, this too is a flawed perception. The County’s RACs and RNCs were designated before the legislature created the specific template for how such rural centers were to be designated and limited. RCW 36.70A.070(5)(d)(iv) establishes the exclusive means for designating RACs, RNCs, and other rural centers. The range of uses and scale of rural commercial centers allowed in a RAID is governed by this section of the GMA, not the County’s preexisting RAC and RNC provisions.

The types of uses permitted in a RAID must have been among the types of uses in existence within the RAID on July 1, 1990. RCW 36.70A.070(5)(d)(v)(A); *see also, Burrow v. Kitsap County*, CPSGMHB Case No. 99-3-0018, Final Decision and Order (Mar. 29, 2000), at 19-20. Uses differ from area to area, so it is appropriate that uses in RAIDs be defined on a case-by-case basis. Section D of T-14 provides: “Uses in a [RAID] shall be defined on a case by case basis as part of the legislative adoption process for the RAID. For consideration purposes, the Rural Activity Center (RAC) uses are to be generally consistent with this desired objective.” The County argues that “[t]he phrase ‘for consideration purposes’ makes clear that the one thing T-14 does not do is to authorize all RAC uses in all RAIDs.” County Response, at 14. However, the Board does not perceive the same clarity the County sees. Indeed, the Board reads this phrase the same as Tacoma: “[U]nder the T-14 provisions, any use established prior to July 1, 1990, such as a single-family house, located within a RAID designated area, could redevelop into an office, hotel, or a furniture store, as these are uses permitted in a RAC.” Tacoma PHB, at 14. Uses permitted in RACs are irrelevant to uses permitted in RAIDs. Such a broadly written policy, suggesting uses allowed in RAIDs identical to uses allowed in RACs, does not comply with the requirements of RCW 36.70A.070(5)(d), which limits uses within a RAID to those types of uses in existence on the land within that RAID on July 1, 1990.

The GMA also requires that existing areas or uses of more intensive rural development be minimized and contained, and shall not extend beyond the logical outer boundary of the existing area or use, thereby allowing a new pattern of low-density sprawl. RCW 36.70A.070(5)(d)(iv).

Although Section A of T-14 mirrors most of the “logical outer boundary” language of the statute, the Plan contains no explanation of the County’s logic in designating the one and only RAID. Without some sort of explanation as to how the boundaries are established, citizens have only the land use map to review. Review of the mapped boundaries does not convincingly reveal a logical outer boundary that minimizes and contains existing areas of more intensive rural development. *See* Supp. Ex. 10.

Of particular concern is the total absence of County analysis regarding parcels “F” and “I,” which were added to the proposal by the Planning Commission on September 22, 1999. *See* Ex. VI, X, 1h [AMD4]; *see also*, Supp. Ex. 10. These parcels were not included in staff reports and the record is void of any consideration of how these two parcels help form the “logical outer boundary” or what uses existed on them on July 1, 1990. The Director of the County’s planning department and the County’s attorney recognized a problem. Ex. VI, X, 3a [Kleeberg]. In a joint letter to the Chair of the County Council, they stated that “[the planning department] has not received documentation that these parcels [F and I] were developed as an area of more intensive development prior to July 1, 1990 (implementation of GMA), and therefore do not comply with the requirements for ‘limited areas of more intensive rural development’ identified in the GMA, RCW 36.70A.070(5)(d).” *Id.*, at 2. The Board agrees.

The Board also finds that the County erred regarding the RAID’s proximity to the City’s UGA.

The County’s hierarchy^[3] of rural centers provides that RACs be located no closer than five miles from a UGA; and that Rural Neighborhood Centers be located no closer than two miles from a UGA. Tacoma PHB, at 39-42. Without explanation as to UGA proximity requirements, this RAID is located within 360 feet of the UGA, which is the present city limits for the City of Tacoma. Designation of a RAID in this location fosters the low-density sprawl that RAIDs are required to avoid. Proximity to the UGA alone suggests to the Board that *if the area were to be urban*, adjustments to the UGA would be a more appropriate means of accomplishing this objective. Based upon the record and the discussion above, the Board finds that the RAID boundaries established by Map amendment M-7 do not comply with RCW 36.70A.070(5)(d).

Finally, Section C of T-14 (RUR 19A.40.070(C)) provides, in relevant part: “[E]ach community planning area *may define criteria* in which a [RAID] is created or prohibit the concept entirely.” (Emphasis supplied.) In other words, while the Plan sets out criteria in RUR 19A.40.070(B) for identifying RAIDs, these criteria are not binding on community planning efforts if the community plan chooses to include a RAID within its boundaries. This Board has previously concluded that “While a city or county has discretion whether or not to adopt [community plans], once it does so, the [community plan] is subject to the goals and requirements of the ACT and *must be consistent with the comprehensive plan.*” *West Seattle Defense Fund III v. City of Seattle*, CPSGMHB Case No. 95-3-73, Final Decision and Order (Apr. 2, 1996), at 25 (emphasis supplied). Sections B and C of T-14 are internally inconsistent and fail to comply with RCW

36.70A.070(preamble).

Amendment T-14 and Map Amendment M-7 do not comply with the requirements of RCW 36.70A.070(5)(d).

Compliance with RCW 36.70A.070(preamble)

Having determined that Amendment T-14 and M-7 do not comply with the requirements of RCW 36.70A.070(5)(d), the Board need not and will not examine whether the map amendment is inconsistent with amendments T-2 or T-14.

Conclusion re: Legal Issue 1

The City has abandoned its challenge regarding Amendment T-2's compliance with RCW 36.70A.070(5)(d). The County's Amendments T-14 and M-7 do not comply with the requirements of 36.70A.070(5)(d). Having found T-14 and M-7 noncompliant with the GMA, the Board need not address whether M-7 is consistent with T-2 or T-14.

Discussion and Conclusion of Legal Issue 3

Legal Issue 3: Did the County fail to comply with RCW 36.70A.210 when it adopted the RAIDs provisions (T-2, T-14, and M-7 amendments) which failed to comply with the Pierce County County-wide Planning Policies (CPPs) for Urban Growth Areas, Promotion of Contiguous and Orderly Development and Provision of Urban Services Policies 1 and 3 and Amendments and Transition Policy 2?

Petitioner argues that amendment T-2 fails to comply with RCW 36.70A.210 because it is inconsistent with County-wide Planning Policy (CPP) 3.4.2. RCW 36.70A.210 provides that CPPs are to be “used solely for establishing a county-wide framework . . . [to] ensure that city and county comprehensive plans are consistent as required in RCW 36.70A.100.” RCW 36.70A.210(1). This language means that comprehensive plans must be consistent with CPPs. *See Snoqualmie v. King County*, CPSGPHB Case No. 92-3-0004, Final Decision and Order (Mar. 1, 1993), at 32. Therefore, T-2 must not be inconsistent with CPP 3.4.2.

CPP 3.4.2 provides:

3.4.2 Sewer Interceptor Extensions/Expansions

- a. Sewer interceptors shall only extend outside of Urban Growth Areas where (i) sewer service will remedy ground water contamination and other health problems by replacing septic systems and community on-site sewage systems, or (ii) a formal binding agreement to service an approved planned

- development was made prior to the establishment of the Urban Growth Area;
- b. . . .
 - c. sewer service connections from interceptors shall not be made available to properties along the interceptor alignment where urban intensity development is not consistent with the Urban Growth Area boundary or tier designations and the County or municipal comprehensive land use plans.

Supp. Ex. 7, at 57-58. It is noteworthy that the County's Plan was virtually identical to CPP 3.4.2 before amendment T-2 was adopted. Although T-2 amended PCC 19A.40.040, the CPP was not similarly amended.

Petitioner argues that T-2's provision allowing sewer connections to RAIDs and M-7's delineation of the County's RAID are inconsistent with CPP 3.4.2's general prohibition on sewer service in rural areas. The County responds that CPP 3.4.2 applies only to "interceptors" and the existing line into the designated RAID is not an interceptor, and that "interceptors are a sub-set of sanitary sewers."^[4] County Response, at 31. The inconsistency is clear on its face: CPP 3.4.2 only allows sewer interceptors, in limited circumstances, to extend beyond the UGA^[5], while amendment T-2 allows all sanitary sewers in the rural area. The County's amended Plan allows more sewer service in rural areas than the CPPs allow. Amendment T-2 and CPP 3.4.2 are inconsistent

Amendment T-14 requires that a proposed RAID have *existing sewer service* to be designated as a RAID. CPP 3.4.2(a) does not address the situation where existing sewer service is available to a rural property; it only speaks to extension of sewer service (interceptors beyond the UGA) in certain circumstances. Existing sewer service in the "rural area" is a reality in some areas that must be acknowledged. However, the mere presence of existing sewer service does not guarantee that the area will be included within a RAID designation. The requirement that the proposed RAID have existing sewer service available is not inconsistent with CPP 3.4.2. Thus, T-14 is not inconsistent with CPP 3.4.2.

In contrast, because the area mapped as a RAID by amendment M-7 does not meet either of the two *exceptions* allowed by CPP 3.4.2 Amendment M-7 is inconsistent with CPP 3.4.2.

Conclusion re: Legal Issue 3

The County's Amendments T-2 and M-7 are inconsistent with CPP 3.4.2, and do not comply with RCW 36.70A.210. The County's Amendment T-14, is not inconsistent with CPP 3.4.2 and complies with RCW 36.70A.210

Discussion and Conclusion of Legal Issues 2 and 4

Legal Issue 2: Did the County fail to comply with the requirements for urban growth and urban services of RCW 36.70A.110 when it adopted the T-2, T-14, and M-7 comprehensive plan amendments contained in the Ordinance?

Legal Issue 4: Did the County fail to comply with the comprehensive plan consistency requirements of RCW 36.70A.070 (preamble) when it adopted the RAIDs provisions (T-2, T-14, and M-7 amendments) of the Ordinance?

Having found that the County's Amendments T-2 and M-7 are inconsistent with CPP 3.4.2, and that Amendment T-14 does not comply with RCW 36.70A.070(5)(d), the Board need not address whether the amendments comply with RCW 36.70A.110 [Legal Issue 2]. However, the Board notes that RCW 36.70A.070(5)(d) provides "the rural element may allow for limited areas of more intensive rural development, including necessary public facilities and public services to serve the limited area as follows: . . ." In other words, "[P]roviding sewer service to RAIDs is explicitly permitted by the GMA." *Gain v. Pierce County*, CPSGMHB Case No. 99-33-0019, Final Decision and Order (Apr. 18, 2000), at 6. [\[6\]](#)

Having found that the County's Amendments T-2, T-14 and M-7 do not comply with the requirements of the RCW 36.70A.070(5)(d) and RCW 36.70A.210, the Board need not address whether the amendments are inconsistent with the County's existing GMA Plan [Legal Issue 4].

Conclusion re: Legal Issues 2 and 4

Having found that the County's Amendments T-2, T-14 and M-7 do not comply with RCW 36.70A.070(5)(d) and .210, the Board need not address the remaining Legal Issues.

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 challenged amendments (T-2, T-14, and M-7) to the County's comprehensive plan, Ordinance No. 99-93S2 are **not in compliance** with the requirements of the Growth Management Act. **The Board finds that the County's action adopting the challenged plan amendments was clearly erroneous.** Pursuant to RCW 36.70A.300(1)(b), the Board directs the County to comply with the Growth Management Act as set forth and interpreted in this Final Decision and Order as follows:

1. By no later than 4:00 p.m. on **Friday, August 25, 2000**, the County shall take legislative action to:

- a. If the County elects to have “RAIDs” (T-14), take the necessary steps to comply with RCW 36.70A.070(5)(d).
- b. Remove the inconsistency between County-wide Planning Policy 3.4.2 and challenged Policies T-2 and M-7 (RCW 36.70A.210).
- c. Delete Map Amendment M-7.

2. By no later than 4:00 p.m. on **Wednesday, August 30, 2000**, the County shall file with the Board an original and four copies of a Statement of Actions Taken to Comply with this Final Decision and Order (the **SATC**), and shall simultaneously serve a copy on the City.

3. By 4:00 p.m. on **Tuesday, September 5, 2000**, the City shall file with the Board an original and four copies of its Memorandum in Response to the SATC, and shall simultaneously serve a copy on the County.

Pursuant to RCW 36.70A.330(1), the Board gives Notice of Compliance Hearing in this matter to be held beginning at 10:00 a.m. on **Thursday, September 7, 2000** in Room 1022 of the Financial Center, 1215 Fourth Avenue, Seattle.

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So ORDERED this 26th day of June, 2000.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

Edward G. McGuire, AICP
Board Member

Lois North,
Board Member

Joseph W. Tovar, 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.

[1] In the PHO, Board member McGuire withdrew as Presiding Officer; Board member Lois H. North became Presiding Officer for the remainder of the case.

[2] An existing binding agreement for an approved planned development is what is required.

[3] The Board notes that the County's hierarchy appears to be turned on its head, with RAIDs at the bottom, instead of at the top, as the umbrella within which all RACs, RNCs, and other rural centers must fit.

[4] One of the amendments made by T-2 was to replace the phrase "Sewer interceptors" with "Sanitary sewers" in order to "cover the range of pipe sizes to which individual connections usually occur." Ex. VI, S, 1 (Staff Report and Draft Supplemental Environmental Impact Statement, at 52).

[5] The Board recognizes that RCW 36.70A.070(5)(d) allows sewer service in limited areas of more intensive rural development, but here the CPPs limit that authorization.

[6] Petitioners in the *Gain* case also challenged Pierce County's adoption of Amendment T-2. However, in that case, the petitioners did not raise the issue of consistency with CPP 3.4.2.