

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

MICHAEL S. LOTTO and ANN M.	)	<b>Case No. 01-3-0024</b>
LOTTO, husband and wife; and	)	<b>(Lotto)</b>
ANGELO TOPPANO and JUNE	)	
TOPPANO, husband and wife,	)	
	)	<b>ORDER OF DISMISSAL</b>
Petitioners,	)	
	)	
v.	)	
	)	
CITY OF KENT,	)	
	)	
Respondent.	)	
	)	
	)	

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**I. PROCEDURAL Background**

On October 25, 2001, the Central Puget Sound Growth Management Hearings Board (the **Board**) received a Petition for Review (**PFR**) from Michael S. Lotto, Ann M. Lotto, Angelo Toppano, and June Toppano (**Petitioners** or **Lotto**). The matter was assigned Case No. 01-3-0024. Petitioners challenged Ordinance No. 3572 (the **Ordinance**) of the City of Kent (**Kent** or the **City**) which adopted Comprehensive Plan and zoning designations for a 266 acre area known as the DeMarco Annexation Area, an area recently annexed to the City.

On November 26, 2001, the Board conducted a Prehearing Conference in this matter. At the conference, the parties indicated to the Board that they have been engaged in settlement discussions. The City has agreed to repeal Ordinance No. 3572 prior to December 14, 2001. The City has agreed to initiate a new process to reconsider the appropriate Comprehensive Plan designation and zoning for the DeMarco Annexation area, including Petitioners' Property by no later than January 30, 2002. The new process is to be completed by May 30, 2002, and the City has agreed that the new process will comply with the mandates of the GMA. Petitioners have agreed to withdraw Case No. 01-3-0024 within ten business days after Petitioners receive from the City evidence that the City has repealed Ordinance No. 3572.

In consideration of these pending actions, the Board determined to continue the Prehearing Conference until Monday, December 17, 2001.

On December 13, 2001, the Board received a Stipulated Motion to Dismiss Case No. 01-3-0024 from Amy Kosterlitz, attorney for Petitioners Lotto and Toppano, and Kim Adams Pratt, attorney for the Respondent, City of Kent. The parties stipulated to the dismissal, without prejudice, of the above entitled cause of action, and requested the Board to enter an Order for the same.

## **II. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The Board finds:

On December 13, 2001, the Petitioners and Respondent in Case No. 01-3-0024 submitted a Stipulated Motion to the Board requesting dismissal, without prejudice, of the case.

The Board concludes:

Because the parties have indicated a wish for dismissal of Case No. 01-3-0024, it is appropriate for the Board to do so.

## **III. ORDER**

Based upon the relevant law, and the finding and conclusion noted above, the Board enters the following ORDER:

The Petition for Review filed by Michael and Ann Lotto, Angelo and June Toppano challenging the City of Kent's adoption of Ordinance No. 3572 (CPSGMHB Case No. 01-3-0024) is **dismissed with prejudice.**

The continuation of the Prehearing Conference scheduled for December 17, 2001 is hereby **cancelled.**

So ORDERED this 13<sup>th</sup> day of December 2001.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

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Lois H. North,  
Presiding Officer

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Edward G. McGuire, AICP  
Board Member

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Joseph W. Tovar, AICP  
Board Member