

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

CITY OF EDGEWOOD, ET AL.,	)	<b>Case No. 01-3-0018</b>
	)	
Petitioners,	)	
	)	<i>(Edgewood)</i>
v.	)	
	)	
CITY OF SUMNER, <a href="#">[1]</a>	)	<b>FINAL DECISION and ORDER</b>
	)	
Respondent.	)	
	)	

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**I. Procedural Background**

**A. General**

On July 23, 2001, the Central Puget Sound Growth Management Hearings Board (the **Board**) received a Joint Petition for Review (**PFR**) from the City of Edgewood, W. Dale and Joann R. Overfield, Carl R. and Betty Hogan, Donald R. and Camille Vandevante, Larry G. and Louetta L. Oney, Mel and Jean Korum and Anne C. Pyfer (**Petitioners** or **Edgewood**). The matter was assigned Case No. 01-3-0018. Petitioners challenge the City of Sumner’s (**Respondent** or **Sumner**) adoption of Ordinance Nos. 1956 and 1958, amending Sumner’s Comprehensive Plan and Zoning code. The basis for the challenge is noncompliance with various provisions of the Growth Management Act (**GMA or Act**).

On August 2, 2001, the Board issued a “Notice of Hearing;” on September 4, 2001, the Board held a prehearing conference (**PHC**) and issued its “Prehearing Order” (**PHO**) setting the final schedule and stating the Legal Issues to be resolved.

**B. Motions to Supplement And amend index**

On August 27, 2001, the Board received the City of Sumner’s “Index” of the record (**Index**). The Index noted 11 Items and contained 564 pages.

On September 12, 2001, the Board received the following **core documents**: Edgewood’s Interim and Final GMA Comprehensive Plan; Ordinance Nos. 1956 NS 1958, with attachments; Sumner’s Comprehensive Plan and Zoning Code, with maps.

On September 14, 2001, the Board received excerpts from the following **core document** – Pierce County’s County-wide Planning Policies (**CPPs**).

Also on September 12, 2001, the Board received Petitioners “Motion to Supplement Record Prepared by the City of Sumner” and “Affidavit of Mary J. Urback in support of Motion to Supplement Record.” Nine proposed exhibits were attached.

On September 19, 2001, the Board received Respondent’s “City’s Response to Motion to Supplement the Record Prepared by the City of Sumner.” The City raised no objection to six items; indicated one item was already in the

record, and objected to two items.

Petitioners did not file a reply to Sumner's Response.

On October 4, 2001, the Board issued its "Order on Motion to Supplement." The Order **granted** Petitioners' motion to supplement and summarized the items comprising the record in this case.

### C. Dispositive Motions

The Board did not receive any dispositive motions within the timeframes established in the PHO.

### D. Briefing, Hearing on the Merits and Post hearing filings

On October 29, 2001, the Board received "Petitioners' Opening Brief," with 3 attached exhibits" (**Edgewood PHB**).

On November 19, 2001, the Board received "City of Sumner's Response Brief," with five attached exhibits" (**Sumner Response**).

On November 28, 2001, the Board received "City of Edgewood and Individual Petitioners' Reply and Motion to Strike [2]," (**Edgewood Reply**).

On December 6, 2001, the Board held a hearing on the merits (**HOM**) in room AB of the Financial Center, 1215 4th Avenue, Seattle, Washington. Board members Edward G. McGuire, Presiding Officer, Lois H. North and Joseph W. Tovar were present for the Board. Wayne Tanaka represented Petitioner City of Edgewood. Mary Urback represented the individual Edgewood Petitioners (Overfield, Hogan, Vandevante, Oney, Korum and Pyfer). Patricia Bosmans represented Respondent City of Sumner. Gary Watkins, Legal Intern to the Board also attended. Members from Sumner's staff and individual Edgewood Petitioners were also present. Scott Kindle of Mills and Lessard, Inc., Seattle, provided court-reporting services. The hearing convened at 10:00 a.m. and adjourned at approximately -- 12:00 p.m.

No transcript of the hearing was ordered.

On December 13, 2001, as requested at the HOM, the Board received copies of the Zoning Map for the City of Edgewood and copies of Sumner's Municipal Code Chapter 16.50, relating to Landslide Hazards and Erosion Control.

## II. presumption of validity, burden of proof and standard of review

Petitioners challenge the City of Sumner's amendments to its GMA Comprehensive Plan and Zoning designations, as adopted by Ordinance Nos. 1956 and 1958. Pursuant to RCW 36.70A.320(1), Sumner's Ordinance Nos. 1956 and 1958 are presumed valid upon adoption.

The burden is on Petitioners, City of Edgewood and Individual Petitioners, to demonstrate that the actions taken by Sumner 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 [Sumner] 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 Sumner'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).

Pursuant to RCW 36.70A.320(1) the Board will grant deference to the City of Sumner in how it plans for growth,

consistent with the goals and requirements of the GMA. However, as our State Supreme Court has stated, “Local discretion is bounded, however, by the goals and requirements of the GMA.” *King County v. Central Puget Sound Growth Management Hearing Board*, 142 Wn.2d 543, 561 (2000). Further, Division II of the Court of Appeals has stated, “Consistent with *King County*, and notwithstanding the ‘deference’ language of RCW 36.70A.3201, the Board acts properly when it foregoes deference to a [jurisdiction’s] plan that is not ‘consistent with the requirements and goals of the GMA.’” *Cooper Point Association v. Thurston County*, No. 26425-1-II (Court of Appeals, Div. II, September 14, 2001), \_\_ Wn. App. \_\_, \_\_ (2001).

### iii. board jurisdiction, Preliminary matters and Prefatory note

#### A. Board Jurisdiction

The Board finds that the PFR filed by the City of Edgewood and the individual Petitioners was timely filed, pursuant to RCW 36.70A.290(2); as participants, Petitioners have standing to appear before the Board, pursuant to RCW 36.70A.280(2); and the Board has subject matter jurisdiction over the challenged ordinances, which amend Sumner’s Comprehensive Plan and development regulations, pursuant to RCW 36.70A.280(1)(a).

#### B. Preliminary matters

Sumner’s Response brief included a “Declaration of John Doan Dated November 16, 2001” and reference to the Doan Declaration in the text of the Response brief. Attached to the Doan Declaration were two pages [L-34 and L-35] from the City of Sumner’s DEIS that discussed alternatives for addressing Sumner’s coordination with the existing North Hill Community Plan of Pierce County [*i.e.* Edgewood’s Interim Plan]. Sumner Response, at 15 and Ex. 2. Petitioners moved to strike the Doan Declaration and all argument based thereon in Sumner’s response brief, arguing that the Declaration was not part of the record and that Sumner did not move to supplement the record within the timeframe set forth in the PHO. Edgewood Reply, at 1-2.

At the HOM, the Board heard argument on the motion to strike and orally ruled on Petitioners’ motion. The PO ruled that the Doan Declaration be **struck** from the record, but that the Board would take **official notice** of pages L-34 and L-35 from the DEIS. Reference to the attachments to the Doan Declaration (pages L-34 and L-35), are accorded the appropriate weight, if any, in the course of the Board’s deliberations.

#### C. Prefatory Note

While the Board has had prior cases involving disputes over unincorporated areas between older cities and newly incorporated cities, this case is a case of first impression. It is the first case this Board has had where an old city and a new city dispute a land use action occurring on their common border but entirely within one jurisdiction’s city limits. Here, the City of Edgewood, a newly incorporated city, is challenging a Plan amendment and zoning change to a geographic area that lies *entirely within the city limits of the City of Sumner*, but adjacent to Edgewood’s city limits.

The Board has previously stated “Cities enjoy broad discretion in comprehensive plan-making, both in terms of the subjective criteria used and the range of specific choices selected.” *Aagaard, et al., v. City of Bothell*, CPSGMHB Case No. 94-3-0011c, Final Decision and Order, (Feb. 21, 1995), at 8. Deference in such decisions is also reflected in RCW 36.70A.3201. <sup>[3]</sup>

At issue in this case are two Ordinances: 1) Ordinance No. 1956 amends Sumner’s Plan Land Use Map designations,

changing approximately 69 acres, from General Commercial (7.5 acres) and Low Density Residential (61.4 acres) to Light Industrial; and 2) Ordinance No. 1958 amends Sumner's official zoning map to reflect this Plan change (*i.e.* rezoning from General Commercial (GC) and Low Density Residential (LDR-8500) to Light Industrial (M-1)). Edgewood's interim plan and the recently adopted City of Edgewood GMA Comprehensive Plan both designate the lands surrounding the area in question as Single Family Low, allowing a base density of 1 unit per acre and a maximum density of 2 units per acre.<sup>[4]</sup> The City of Edgewood's GMA challenge does not go to the substance of Sumner's amendments (the Light Industrial amendments) but instead attacks the coordination process, or lack thereof, used by Sumner.

The PHO set forth 6 Legal Issues for the Board to resolve in this case. In their briefing, Petitioners combined argument for Legal Issues 1 and 2 and legal argument for Legal Issues 3 and 4. Consequently, the Board will address Legal Issues 1 and 2 (external consistency) together, Legal Issues 3 and 4 (internal consistency) together, Legal Issue 5 (SEPA), and finally, Legal Issue 6 (Petitioners' request for invalidity).

#### **iv. legal issues and discussion**

##### **A. Legal Issue Nos. 1 and 2 (External Consistency)**

The Board's PHO set forth Legal Issue Nos. 1 and 2:

1. *Did the City of Sumner (the City) fail to comply with the coordination and consistency requirements of RCW 36.70A.100, and fail to be guided by RCW 36.70A.020(11) and .010 when it adopted Ordinance Nos. 1956 and 1958 (Plan amendment and zoning amendment, respectively or amendments), because the amendment(s) are not coordinated or consistent with the City of Edgewood's interim and GMA Plan?*<sup>[5]</sup>
2. *Did the City fail to comply with the consistency requirements of RCW 36.70A.210 when it adopted the amendment(s), because the amendment(s) are inconsistent with direction provided by Pierce County County-wide Planning Policy (CPP) 4?*<sup>[6]</sup>

#### **Applicable Law**

RCW 36.70A.010, the legislative findings supporting the Act, provides, in relevant part:

The legislature finds that uncoordinated and unplanned growth, together with a lack of common goals expressing the public's interest in the conservation and the wise use of our lands, pose a threat to the environment, sustainable economic development, and the health, safety, and high quality of life enjoyed by the residents of this state. *It is in the public interest that citizens, communities, local governments, and the private sector cooperate and coordinate with one another in comprehensive land use planning.*

(Emphasis supplied). The reflection of legislative intent to foster coordinated planning is carried forward to one of the common statewide goals expressing the public's interest in public participation. RCW 36.70A.020(11) [Goal 11] provides:

Citizen participation and coordination. Encourage the involvement of citizens in the planning process and *ensure coordination between communities and jurisdictions to reconcile conflicts.*

(Emphasis supplied). The coordination aspect of this goal is reflected in several of the requirements of the Act, but the

one challenged here, 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 supplied). The importance of coordination for GMA planning jurisdictions is also reflected in RCW 36.70A.210, which provides in relevant part:

A countywide planning policy shall at a minimum, address the following:

...

(f) Policies for *joint county and city planning* within urban growth areas.

RCW 36.70A.210(3)(f), (emphasis supplied). Further, Pierce County’s County-wide Planning Polices (**CPPs**), which are binding upon both the City of Sumner and the City of Edgewood, provide in relevant part:

4. Joint Planning. Designated Urban Growth Areas of municipalities, outside of municipal corporate limits, shall be subject to joint municipal-county planning. *Joint jurisdictional planning shall occur in those other areas where the respective jurisdictions agree such joint planning would be beneficial.*

4.1 Joint Planning *may* be municipal-municipal as well as municipal-County.

Pierce County CPP 4, at 62, (emphasis supplied). This CPP clearly requires joint planning between cities and the County for unincorporated urban growth areas (**UGAs**). However, joint planning is only required for cities, per CPP, when both cities agree such joint planning would be beneficial.

### Discussion and Analysis

#### Position of the parties:

Edgewood quotes the above GMA provisions emphasizing the reference to coordination and notes that coordination implies a process that should ultimately yield a consistent result. Petitioners then assert that in adopting the Sumner amendments, there was a “lack of any meaningful process to coordinate comprehensive plans.” Edgewood PHB, at 4. Petitioners continue, that prior to Sumner’s consideration of the amendments, there was little need for coordination since Edgewood and Sumner both considered the area as low-density residential land. However, Edgewood contends, once it became aware of the pending change, it undertook actions to request joint planning, but such requests “were largely met with silence or secret ridicule.” Edgewood PHB, at 5-8. Petitioners acknowledge that the Mayor of Sumner and staff made presentations at an Edgewood Council meeting, but contend Edgewood was entitled to this opportunity irrespective of the provisions of RCW 36.70A.100.<sup>[7]</sup> Additionally, Edgewood acknowledges that it presented its concerns at informational meetings and hearings held by the Sumner Planning Commission and City Council, however, Edgewood asserts that .100 requires “more” than the opportunity to comment. Edgewood PHB, at 5.

The City of Sumner characterizes the basic issue in this case as, “Whose vision of Sumner shall prevail, Sumner’s or Edgewood’s?” Sumner Response, at 2. Sumner’s brief outlines the history of public participation and coordination efforts regarding the challenged action; Edgewood does not dispute the events as presented by Sumner. *See*: Sumner Response, at 2-5; Edgewood Reply, at 1-8; Appendix A, Findings of Fact (**FoF**) 12-18. Sumner contends Edgewood

abandoned its challenge to Sumner's compliance with RCW 36.70A.010 and .020(11), but nonetheless, Sumner has complied with the coordination and public participation requirements of the Act. Sumner Response, at 7.

Regarding compliance with RCW 36.70A.100, Sumner argues that for consistency purposes, Edgewood did not have a GMA Plan, adopted pursuant to RCW 36.70A.040, until after Sumner had adopted the challenged amendments. Therefore, .100 was not applicable at the time the amendments were adopted and that actually, Edgewood's Plan should have been consistent with Sumner's Plan. Sumner Response, at 7–9. Further, Sumner asserts that Sumner met with Edgewood on numerous occasions to discuss the amendments and Petitioners had ample opportunity to participate in the Plan amendment process. Sumner also suggests that the “more” that Petitioners seek is Sumner's agreement with Edgewood's views on the amendments, an outcome which is not required by the GMA. Sumner's Response, at 9–10.

In response to compliance with the Pierce County CPPs, Sumner notes that joint planning is required within the unincorporated UGA, not within Sumner's city limits. Joint planning between cities within city limits is permitted by the CPPs where there is agreement that such planning would be beneficial. Regarding the challenged amendments, and notwithstanding the communication between the cities, Sumner and Edgewood simply disagreed on the need for amendments and further discussions. Sumner Response, at 10 – 12.

Edgewood replies that Sumner suggests a “first in time, first in right” argument for purposes of compliance with .100, which is counter to the coordination requirements of the GMA. Edgewood Reply, at 2. Edgewood further argues that agreement with Edgewood is not necessary to comply with .100, and acknowledges that “the Sumner City Council is the ultimate decision maker with regard to the comprehensive plan designations and zoning [regarding the amendments].” Edgewood Reply, at 3. However, Edgewood contends that the something “more” that .100 requires is “joint planning of the common boundary property along the West Valley Highway Corridor.” Edgewood Reply, at 3.

#### Discussion and Analysis:

RCW 36.70A.010 contains legislative findings that support the goals and requirements established in the remainder of the GMA. These legislative findings, standing alone, impose no duty on a jurisdiction. The Board's review focuses on a local government's compliance with the goals and requirements of the Act, in the context of these findings. Petitioners' challenge to compliance with RCW 36.70A.010 is **dismissed**.

#### Coordination between Sumner and Edgewood:

RCW 36.70A.100 is unambiguous. Both Sumner and Edgewood are GMA planning jurisdictions that are required to adopt their plans pursuant to RCW 36.70A.040. These GMA Plans are required to be coordinated and consistent where there are common borders or related regional issues. RCW 36.70A.100.

Sumner adopted its GMA Plan in 1994. FoF 7. It is undisputed that, at the time the Sumner amendments were considered and acted upon, Edgewood did not have a comprehensive plan adopted pursuant to RCW 36.70A.040. Although Edgewood voted to incorporate in 1995, after Pierce County had adopted its GMA Plan in 1994, Edgewood did not adopt the County's GMA Plan for the area encompassing the new city. FoF 2 and 4. Instead, in 1996, Edgewood adopted a Pre-GMA plan crafted by the County in 1991, as it's interim plan. FoF 1 and 5. Even this action, the adoption of the Pre-GMA North Hill Plan,<sup>[8]</sup> was not accomplished pursuant to RCW 36.70A.040. FoF 5. Edgewood's first adoption of a Plan intended to comply with the GMA occurred in June of 2001, following Sumner's May 2001 adoption of the two challenged ordinances. FoF 19, 20 and 21. Given that Edgewood's interim plan was a Pre-GMA document, its basis for evoking a coordination and consistency challenge against Sumner per .100 is **without merit**.

However, the GMA promotes the spirit of interjurisdictional cooperation and coordination and should guide planning even between existing and newly incorporated cities. In its argument, Edgewood focuses on the alleged lack of coordination and cooperation in reaching the amendment decision. Edgewood acknowledges that the final decision is Sumner's, but is more concerned about the lack of a coordination process rather than the consistency of the resulting amendments.

Review of the record in this case indicates that there were numerous cooperative and coordination efforts. The planning staffs of the two cities met (FoF 17); Sumner organized informational meetings and made presentations for the benefit of Edgewood (FoF 13 and 14); Edgewood participated orally and in writing in Sumner's public participation process (FoF 15 and 18); alternatives to the original proposal were considered, and ultimately a modified and limited amendment was adopted in response to concerns raised by Petitioners (FoF 9, 10, 15, 19 and 20). **The Board finds no fault with these cooperation and coordination efforts, and does not find a failure to comply with RCW 36.70A.100.** Having found compliance with the coordination requirements of .100, the Board also finds Sumner's actions have been guided by the public participation provisions of RCW 36.70A.020(11) – Goal 2.

Consistency with the joint planning CPP:

Edgewood also challenges Sumner's compliance with Pierce County CPP 4, which addresses joint planning. This is the "more" that Edgewood asserts it is entitled to, in addition to the efforts made by Sumner. This CPP requires joint planning between cities and the county for unincorporated UGAs, but joint planning in other instances is permissive if jurisdictions agree it would be beneficial. *See: CPP 4 and 4.1 supra.*

Edgewood points to efforts it took to request joint planning, including a motion of the planning commission. A letter quoting the Planning Commission motion provides as follows:

Moved by Crowley, seconded by Allen, that the Commission respond to the City of Sumner's Comprehensive Plan amendment request and express our concerns relating to contiguous jurisdiction land use, stability of the area, stormwater, traffic, glare and noise. We request to be included as a party of interest. Motion passed 6 yes votes, and 1 abstention.

Index Item 2, [November 30, 2000 Blaylock letter to Windish], Record, at 47. The letter also acknowledges receipt of Sumner's notice of application on the amendment and indicates that preliminary review raises concerns about incompatibility of land uses between adjacent jurisdictions. The Board notes that this letter merely asks that Edgewood be included as a party of interest regarding the proposed amendment. It does not request joint planning.

Edgewood also cites to Resolution 01-88, passed by the Edgewood City Council, indicating its desire to undertake joint planning. This Resolution declares Edgewood's opposition to Sumner's amendment, and asks Sumner to deny it. Yet the Resolution accepts and wholly supports Sumner's efforts to coordinate planning for land uses along the West Valley Highway as part of Sumner's Transportation Element update. Section 4 of the Resolution provides:

The City of Edgewood directs the Edgewood staff to coordinate a joint planning effort between the Cities of Sumner and Pacific for the fiscal year beginning January 1, 2002.

Index Item 8, [Resolution 01-88], Record, at 439. This resolution recognizes an apparent coordination effort by Sumner to review and update its Transportation Element (**TE**) particularly related to the West Valley Highway corridor. It also clearly directs Edgewood's staff to coordinate and participate in that process beginning January 1, 2002. [\[9\]](#)

Neither of these expressions by Edgewood seems to be germane to the amendments *and* CPP 4. The letter never suggests or requests joint planning as it relates to the amendments. The Resolution directs Edgewood staff to commence a coordinated joint planning effort at a future date, which may or may not coincide with Sumner's apparent review of the West Valley Highway for its TE, but it does not seek joint planning for the amendment area. Even if the letter and Resolution directly asked for joint planning for the amendment area they would not trigger joint planning per CPP 4. These unilateral expressions by Edgewood do not indicate both cities *agree* that joint planning would be *beneficial* regarding the amendments. <sup>[10]</sup> Absent an agreement of some type, between *both* Sumner and Edgewood, that joint planning for the amendment area would be beneficial, CPP 4 or 4.1 are simply not applicable. **The Board finds that CPP 4 does not require joint planning in the present instance, nor has Edgewood demonstrated that both cities have agreed that such planning would be beneficial.** While the parties obviously disagree on the need, benefit or desirability of the amendments challenged before the Board, the Board encourages cooperative planning among *all* the affected cities *and* the county in the context of the West Valley Highway corridor.

### Conclusion

The Board concludes that the City of Sumner has **complied** with the coordination provisions of RCW 36.70A.100 and been guided by RCW 36.70A.020(11). The Board further concludes that Pierce County CPP 4 or 4.1 do not compel joint planning for the facts presented in this case, since Sumner and Edgewood have not agreed that such planning would be beneficial. RCW 36.70A.210, CPP 4 and 4.1, requiring joint planning, are **not applicable** to the case presented to the Board.

### **B. Legal Issue Nos. 3 and 4 (Internal Consistency)**

The Board's PHO set forth Legal Issue Nos. 3 and 4:

3. *Did the City fail to comply with the internal consistency requirements of RCW 36.70A.070(preamble) when it adopted the amendment(s), because the amendment(s) are inconsistent with Sumner Plan Policy 1.7.2 and 2.7?* <sup>[11]</sup>
4. *Did the City fail to comply with plan amendment process requirements of RCW 36.70A.070 and .130 and the plan implementation requirements of RCW 36.70A.040(3) and .120 when it adopted the amendment(s), because the amendments did not comply with the City's plan amendment process and criteria?* <sup>[12]</sup>

### Applicable Law

The preamble to RCW 36.70A.070 provides:

The [comprehensive] plan shall be an internally consistent document and all elements shall be consistent with the future land use map.

The GMA provisions governing amendments provides in relevant part:

Any amendment or revision to a comprehensive land use plan shall conform to this chapter, and any change to development regulations shall be consistent with and implement the comprehensive plan.

RCW 36.70A.130(1). <sup>[13]</sup>

RCW 36.70A.120 provides:

Each county and city that is required or chooses to plan under RCW 36.70A.040 *shall perform its activities and make capital budget decisions in conformity with its comprehensive plan.*

(Emphasis supplied). This GMA section requires jurisdictions to follow through in implementing their conforming development regulations. Sumner's Comprehensive Plan provides:

1. Monitor implementation of the Comprehensive Plan for consistency with the City vision, Growth Management Act requirements and policies, Multi-County Planning Policies, and Pierce County Planning Policies and make amendments to the plan as necessary.

...

1.2 Implement procedures for no more than annual amendment of the Comprehensive Plan. Specific plan amendments may be initiated by the City Council, Planning Commission, City staff, or the general public.

Core Document, Sumner Comprehensive Plan, Plan Monitoring and Amendment Sub-Element, Record, at 638. Sumner Municipal Code (SMC), Section 18.56.147, entitled "Comprehensive Plan Amendments" implements these Plan provisions.

### Discussion and Analysis

#### Position of the parties:

Edgewood argues that Sumner did not follow its own plan amendment criteria when it adopted the challenged amendments. Specifically, Petitioner asserts that the amendments are not necessary to resolve inconsistencies in the Sumner Comprehensive Plan and there have been no changed circumstances since the property was designated residential. Edgewood PHB, at 9-10. Edgewood disputes Sumner's rationale for the amendments suggesting that there is no policy basis in Sumner's Plan to support the change to resolve an inconsistency. Edgewood PHB, at 10. Further, Petitioner contends the only changed circumstances are that the previous property owner wanted the property to be residential, while "the new owner wants more options." Edgewood PHB, at 11.

Sumner argues that Edgewood has abandoned its internal consistency challenge as stated in Legal Issue 3. Further, Sumner contends that Petitioner "[cannot cite to any] authority for the proposition that Sumner had a legal obligation, duty or policy to jointly plan for any properties within the corporate limits of the City of Sumner other than the public participation requirements of the GMA [pertaining to the amendments]." Sumner Response, at 13.

Sumner notes that Petitioner only challenged two of the plan amendment criteria set forth in the SMC, and that City's rationale and basis for meeting those criteria (plan inconsistency and changed circumstances) is set forth in the staff report and a letter from the proponent of the amendment which are part of the record for the amendments proceeding. Sumner Response, at 14.

In reply, Edgewood argues the applicability of Plan Policy 1.7.2 (Edgewood Reply, at 5). Petitioner continues to assert that there have been no changed circumstances to support the amendments. Edgewood alleges that when the City designated the property residential in 1994 it was aware of the manufacturing designation on the east side of the West Valley Highway and the unique topography of the property. "The only difference in 2001 is the new owner of the property and the fact that the proposed interchange from [SR] 167 along West Valley Highway has moved a few blocks north." Edgewood Reply, at 6.

Discussion and Analysis:

**Legal Issues, or portions of Legal Issues, not briefed in the Prehearing Brief will be deemed to have been abandoned and cannot be resurrected in Reply Briefs or in oral argument at the Hearing on the Merits.**

September 4, 2001 PHO, at 6, (**bold** emphasis in original); *see also*, WAC 242-02-570. Petitioners offer no argument under Legal Issues 3 or 4 relating to either Plan Policy 1.7.2<sup>[14]</sup> or 2.7<sup>[15]</sup>. Petitioner merely quotes Sumner Plan Policy 1.7.2 and notes 2.7 in a footnote under argument for combined Legal Issues 1 and 2 in Petitioners' brief. Edgewood PHB, at 4. The Board has already addressed Legal Issues 1 and 2 and will not address them further here.

As noted *supra*, Petitioners' PHB offers no argument under Legal Issues 3 and 4 to demonstrate how the amendments are inconsistent with Plan Policy of 1.7.2 and 2.7. In reply, Edgewood attempts to argue the application of 1.7.2 (Edgewood Reply, at 5); however, this argument is untimely as well as unpersuasive. Edgewood's challenge regarding consistency of the amendments to Plan Policies 1.7.2 and 2.7, as required by RCW 36.70A.070(preamble), is **abandoned**.

Sumner's Plan requires the implementation of a process for the annual plan amendment cycle. *See*: Plan Monitoring and Amendment Sub-Element *supra*, at 12. Section 18.56.147 SMC, titled "Comprehensive Plan Amendments" sets forth Sumner's plan amendment process. Section 18.56.147 SMC also includes seven criteria for evaluating plan amendments. The two criteria challenged by Petitioner in this proceeding provide:

N. The following criteria shall be evaluated when considering plan amendments. Only those amendments which are found to be in substantial compliance with all criteria shall be approved.

1. An amendment is necessary to *resolve inconsistencies* between the Sumner comprehensive plan and other city plans or ordinances; or, to resolve inconsistencies between the Sumner comprehensive plan and other jurisdiction's plans or ordinances.<sup>[16]</sup>
2. *Conditions have so changed* since the adoption of the Sumner comprehensive plan that the existing goals, policies, objectives, and/or map classifications are inappropriate.

18.56.147(N)(1) and (2) SMC, (emphasis supplied). The Board first considers the "resolve inconsistency" criterion, and then considers the "changed circumstances" criterion.

*Resolve inconsistency criterion:*

Regarding its analysis of these criteria as they relate to the challenged amendments, Sumner references the amendment proponent's proposal and the staff report that accompanied the proposal. Pertaining to inconsistency, 18.56.146(N)(1), these documents contain the following information and analysis:

The approval of this proposed amendment would eliminate an inconsistency between the land use pattern and the transportation system that presently exists. The status quo simply does not consider the physical isolation of the property from the adjacent residentially zoned properties in the Edgewood jurisdiction. Although in many instances a traditional transitional zoning approach is needed (*e.g.* Industrial to Commercial to Residential etc.) in this case the steep slopes forming the horseshoe [around the property] provides the same type of buffering, but in a different manner. The buffering is both vertical and horizontal. According to the staff report, Chapter 16.50 SMC renders approximately 65% of the property as unbuildable and creates a huge buffer between adjacent residential properties in the Edgewood jurisdiction and the improvements that would be constructed on the depression portion of the property. Therefore, the steep slopes provide a combined vertical and horizontal buffer, which creates a natural

visual barrier and noise attenuator.

Index Item 5, [February 15, 2001 Letter from Brink to Planning Commission (**Feb. 15<sup>th</sup> Letter**)], Record, at 212. A staff report echoes this information and contains the following analysis of inconsistencies:

The proposed amendment would resolve inconsistencies within the Sumner comprehensive plan rather than with other city plans or ordinances. The area proposed for redesignation/rezone is primarily Low Density Residential (61.4 acres) with a strip of General Commercial (7.5 acres) adjacent to the West Valley Highway. The zoning is consistent with the comprehensive plan where the General Commercial designation provides a transition area between the Light Manufacturing zone east of the West Valley Highway. However, the residential property is isolated from other residential areas and public services by topography and lack of transportation access. *Policies in the comprehensive plan support and advocate an interconnected grid system of streets to encourage pedestrian and bicycle use and create a sense of unity in the community. This area of land is isolated from this type of interconnection creating an inconsistency between the land use pattern and the transportation system.* The proposal doesn't resolve inconsistencies with the City of Edgewood or other jurisdiction's plans. Currently the City of Edgewood has a Draft Comprehensive Plan that shows the areas adjacent to this property as single-family residential. On this site the steep slopes that exceed 25% (approximately 65% of the property) are undevelopable and will create a buffer to reduce impacts of industrial development on the surrounding residential areas. Any development on the site will have to meet the current requirements set forth in the Sumner Municipal Code regarding Landslide Hazard and Erosion Hazard areas (SMC 16.50). These requirements establish Type I and Type II Landslide hazard areas. Type I landslide hazard areas typically exceed a slope of 25% and development is limited to cut and fill work of up to 25 cubic yards, and clearing of 2500 square feet for roads and utilities. This type of restriction makes approximately 65% of the site unbuildable and provides a buffer between adjacent residences and any development on the site. Slopes between 15-25% will require a geotechnical engineering report prior to any construction work to determine stability. While the location of industrial zoned property adjacent to residential property may at times be inappropriate, in this case the steep slope areas should form an adequate buffer minimizing incompatibilities.

Index Item 2, [May 2, 2001 Memo from Bauer/Windish to Sumner's Mayor and Council (**May 2<sup>nd</sup> Staff Report**)], Record, at 15-16, (emphasis supplied).

The crux of Petitioners' argument challenging the inconsistency analysis is that the original designation in 1994 was not a mistake. Sumner was aware of industrial uses east of the West Valley Highway but chose to designate the property as residential. Additionally, Petitioner contends that the fact that the area is developing as industrial is what was planned for and cannot be a basis for inconsistency at this time. Further, Petitioner indicates that while the May 2<sup>nd</sup> Staff Report refers to plan policies that support and advocate an interconnected grid system of streets to encourage pedestrian and bicycle use, no citation is given to support this statement. Petitioner does, however, note that Plan Policy 2.4<sup>[17]</sup> in the TE fosters interconnected streets. Edgewood PHB, at 10; and Index Item 3, [May 7, 2001 Letter from Urbach to Sumner City Council], Record, at 130-131.

The Board is persuaded that Sumner's conclusion is not in error. The location and topography of the amendment area is isolated from other residential areas and services. Additionally, the City's concern about transportation access and an interconnected grid system is likewise supportive of the amendment. The staff report, accompanying the amendments, *cites to* and discusses relevant plan policies related to an interconnected grid and access.<sup>[18]</sup> The fact that the area east of the West Valley Highway is actually developing as industrial, as planned, also supports changing from residential to light industrial in this area. The Board concludes that Sumner has performed its amendment review and evaluation activity, in relation to SMC 18.56.147(N)(1), consistently with its plan.

Changed circumstances:

Pertaining to changed circumstances, 18.56.146(N)(2), proponent's representative provides the following information:

The property on the east side of the West Valley Highway is currently developing as an industrial park. Since adoption of the comprehensive plan, conditions have changed as more of the other properties adjacent to the West Valley Highway are being used for industrial purposes. The ever increasing and projected development of the area for light manufacturing use is consistent with Sumner's Comprehensive Plan. The transportation connection and topography of the property foretells that its future use should be consistent with the other properties having sole access from the West Valley Highway, many of which are already part of the developing industrial community.

Index Item 5, [Feb. 15<sup>th</sup> Letter], Record, at 212. Again, the May 2<sup>nd</sup> Staff Report confirms this information and provides the following analysis:

Conditions have so changed since the adoption of the comprehensive plan that the existing map classifications for this area are inappropriate. The area to the east of the site is developing as an industrial park. Conditions are changing in this section of the City as development of light manufacturing/distribution uses continues. This increase in industrial development is consistent with the Comprehensive Plan. Given the level of industrial development that has occurred and is projected to occur in the next 10 years, the subject property may have increasing pressure to develop as light manufacturing uses.

Index Item 2, [May 2<sup>nd</sup> Staff Report], Record, at 16.

Edgewood again argues that industrial development occurring east of the West Valley Highway was planned for, and anticipated; therefore such development cannot be a changed circumstance. Petitioners also contend that the relocation of a proposed highway interchange along SR 167 (8 blocks north) is not a significant change in circumstances. Edgewood PHB, at 11; Edgewood Reply, at 6; and Index Item 3, [May 7, 2001 Letter from Urback to Sumner City Council], Record, at 131-132. The Board disagrees.

The changing land use pattern and transportation picture in the valley are an ample basis to demonstrate changed circumstances since the 1994 residential designation occurred. It is not inappropriate for the City to reevaluate, amend and modify its Plan as planned uses are ultimately realized and developed. The Board concludes that Sumner has performed its amendment review and evaluation activity, in relation to SMC 18.56.147(N)(2), consistently with its plan.

### Conclusion

The Board concludes that Edgewood's challenge regarding consistency of the amendments to Plan Policies 1.7.2 and 2.7, as required by RCW 36.70A.070(preamble), is **abandoned**. Further, the Board concludes that Sumner has performed its amendment review and evaluation activity, in relation to SMC 18,56,147(N)(1) and (2), consistently with the Plan Monitoring and Amendment Sub-Element requirements of its Plan. Sumner's adoption of the amendments in Ordinance Nos. 1956 and 1958 **complies** with the requirements of RCW 36.70A.040(3), .070, .120 and .130. The Board defers to Sumner's decision regarding the choice of designations.

### C. Legal Issue No. 5

The Board's PHO set forth Legal Issue No. 5:

5. *Did the City fail to comply with the requirements of Chapter 43.21C RCW and WAC 197-11-600(4) when it adopted the amendment(s), because the City erroneously determined there was no probable significant adverse impacts associated with the amendments and issued an Addendum instead of a supplemental environmental impact statement?* [\[19\]](#)

### **Applicable Law**

The challenged State Environmental Policy Act (SEPA) regulations, provide in relevant part:

Existing documents may be used for a proposal by employing one or more of the following methods:

...

- (c) An addendum, that adds analysis or information about a proposal but does not substantially change the analysis of significant environmental impacts and alternatives in the existing environmental document.
- (d) Preparation of an SEIS [Supplemental Environmental Impact Statement] if there are:
  - (i) Substantial changes so that the proposal is likely to have significant adverse environmental impacts; or
  - (ii) New information indicating a proposal's probable significant adverse environmental impacts.
- (e) If a proposal is substantially similar to one covered in an existing EIS, that EIS may be adopted; additional information may be provided in an addendum or SEIS (see (c) and (d) of this subsection).

WAC 197-11-600(4). The SEPA rules define an addendum as follows:

“Addendum” means an environmental document used to provide additional information or analysis that does not substantially change the analysis of significant environmental impacts and alternatives in the existing environmental document. The term does not include supplemental EISs. An addendum may be used at any time during the SEPA process.

WAC 197-11-706.

### **Discussion**

#### **Position of the parties:**

The essence of Edgewood's argument is that Sumner erred by choosing to use an Addendum, instead of a Supplemental EIS, in conjunction with its existing FEIS for consideration of the 2000-2001 amendments to its Plan. Edgewood asserts “Sumner determined that there were no new probable significant adverse impacts arising from the proposal and issued an Addendum to its FEIS.” Edgewood PHB, at 11. Citing the Addendum and staff reports, Edgewood contends that these documents establish that a change from residential to light industrial will cause substantial adverse environmental impacts for air quality, noise and traffic. Edgewood PHB, at 12-13. Consequently, Edgewood contends additional environmental review through an SEIS was required instead of an Addendum.

Edgewood, at 14.

Sumner counters, “The Addendum is all that is necessary for compliance with the SEPA requirements for a comprehensive plan amendment. Petitioners argue that more is required because of potential uses for the property in question but until the project is proposed no further review is necessary.” Sumner Response, at 15. Further, Sumner notes that air quality, noise and traffic are adequately addressed in the Addendum and staff reports, and again emphasizes, “Further potential impacts are best addressed when a project is proposed. The developer and Sumner cannot do more to determine traffic impacts without a project pending.” Sumner concludes that the Addendum satisfies WAC 197-11-600(4). Sumner Response, at 16-17.

Edgewood replies, that deferring further environmental review until a project is proposed ignores the procedural mandates of SEPA. With these amendments, Petitioners contend, there are significant adverse impacts and an Addendum is not appropriate. Edgewood also urges the Board not to defer to the decision of the Responsible Official of issuing an Addendum. Edgewood Reply, at 6-7.

### Discussion and Analysis:

Sumner used its *existing FEIS* for the Sumner Comprehensive Plan as the basis to support the amendments. The City chose to use an Addendum to address the 2000-2001 amendments. The Addendum was adopted pursuant to the procedures of WAC 197-11-625. *See: FoF 23-27.* Therefore, the question for the Board is whether the Addendum [\[20\]](#) adds analysis or information about a proposal but does not substantially change the analysis of significant environmental impacts and alternatives in the existing environmental document.

### Air quality:

Regarding air quality, the Addendum states:

#### Background

*Refer to the applicable sections in the FEIS and DEIS.* The analysis in these documents are of a non-project level and not site specific.

#### IMPACT ANALYSIS

The proposals would in effect increase the amount of land within the UGA that is available for industrial or commercial development rather than residential. This increase has the potential of increasing emissions associated with diesel engines and other industrial emissions from manufacturing and processing activities. Additional housing units may cause increased emissions from woodstoves, however they are not likely to be significant.

In short, *depending on the type of industrial use, the emissions may be greater* than those of a residential use.

The . . . proposal, if zoned General Commercial, may have a higher potential for automobile emissions than either industrial or residential because of the higher traffic volume associated with retail uses.

#### MITIGATION MEASURES

*Same as proposed in FEIS and DEIS.*

Index Item 8, [Revised Addendum], Record, at 363, (emphasis supplied). The Addendum adds information regarding potential air quality, noting that air quality impacts will depend upon the ultimate use of the property and that mitigation measures for the amendments will be the same as those in the FEIS and DEIS.

In the staff report, Sumner concludes, “There are no significant changes in adverse impacts associated with this amendment beyond that which was discussed in the Draft Environmental Impact Statement and Final Environmental Impact Statement.” Index Item 8, [May 2<sup>nd</sup> Staff Report], Record at 30. Regarding air quality, the Board agrees. The added generalized information in the Addendum does not substantially change the analysis of significant environmental impacts and alternatives in the existing environmental document, the analysis in the FEIS and DEIS is still relied upon.

### Noise:

Regarding noise, the Addendum states:

#### BACKGROUND

*Refer to the applicable sections in the FEIS and DEIS.*

#### IMPACT ANALYSIS

Conversion of either proposal to an industrial use could significantly increase potential for noise beyond what would occur with residential uses.

The [proposal] site is located adjacent to residential properties that are at a greater elevation than the site. *Increase or retained vegetated buffers would decrease the impact of noise on these residences, however, they may not reduce them to a level of 60 dbA as indicated as an acceptable [level] by the Department of Ecology as described in Table I-3 of the DEIS.*

The general commercial designation would have a greater likelihood of meeting the 60 dbA level due to generally higher potential for quieter uses such as residential, retail, or office as compared to manufacturing, truck traffic, etc.

#### MITIGATION

*Refer to applicable sections in the FEIS and DEIS.*

Index Item 8, [Revised Addendum], Record, at 367, (emphasis supplied). The Addendum adds information regarding potential noise, noting that increasing, or maintaining, the site vegetation would decrease potential noise impacts. It also adds that, depending on use; the 60-dbA level may or may not be attained without additional mitigation measures. Again, for mitigation measures for the amendments, it references those in the FEIS and DEIS.

Again, the Board notes that in the staff report, Sumner states, “There are no significant changes in adverse impacts associated with this amendment beyond that which was discussed in the Draft Environmental Impact Statement and Final Environmental Impact Statement.” Index Item 8, [May 2<sup>nd</sup> Staff Report], Record at 30. In the context of noise,

the Board agrees. The added generalized information in the Addendum does not substantially change the analysis of significant environmental impacts and alternatives in the existing environmental document, the analysis in the FEIS and DEIS is still relied upon.

Traffic:

Regarding traffic, Sumner points to the May 2<sup>nd</sup> Staff Report; it provides in relevant part:

Light manufacturing uses vary greatly in terms of generation of vehicle trips during the p.m. peak hour, from far greater to far less than the 1.0 trips/house [*sic* (10 trips/house)] typically generated by single-family residential developments. A mid-range estimate of trip generation from light manufacturing uses would likely produce no more trips per p.m. peak hour than would be generated under the current zoning of this site. The 2001 update to the City of Sumner Transportation [*sic*] Plan will calculate more specifically these changes in its trip generation analysis.

Index Item 8, [May 2<sup>nd</sup> Staff Report], Record at 30-31. However, Petitioner points to a statement in a March 28, 2001 staff memo that says “If developed to maximum amounts, clustering would potentially result in a traffic increase of 7.3 times what might result from single-family residential development.” Index Item 8, [March 28, 2001 memo from Windish to Planning Commission Re: Clustering Analysis], Record at 401. Here again, the Board agrees with Sumner.

The March 28, 2001 report cited by Petitioner focuses on clustering, not traffic analysis. It spends 5 pages explaining the methodology and options for cluster development, including the *buildable area, floor areas and building height* differences under various provisions of the Sumner Plan and Code; then, without explanation of assumptions or methodology, presents a table of traffic impacts and the statement quoted by Petitioner. The Board finds the explanation in Sumner’s May 2<sup>nd</sup> Staff Report more reasonable in the context of the amendments. The information provided in the May 2, 2001 Staff Report does not suggest that the analysis of significant environmental impacts and alternatives in the existing environmental document need to be altered or modified at this time.

The Board is **not** left with a definite and firm conviction that Sumner has committed a mistake. The Addendum does not substantially change the analysis of significant environmental impacts and alternatives in the existing environmental document because the analysis in the FEIS and DEIS is still relied upon. Likewise, the May 2<sup>nd</sup> Staff Report relies upon the existing FEIS, noting that Sumner is in the process of updating its Transportation Element that will contain an updated traffic analysis. Finally, the Board agrees with Sumner that until such time a project level proposal is offered, the level of detail in the existing environmental documents is adequate. Specific concerns of Petitioners are better addressed and mitigated at the project level.

### Conclusion

The Board concludes that Sumner’s decision to adopt an Addendum regarding its 2000-2001 Plan amendments was **not clearly erroneous** and **complies** with the requirements of SEPA, specifically, WAC 197-11-600(4).

### **D. Invalidity request**

Petitioners’ PFR, at 7, and the Board’s PHO, set forth Legal Issue No. 6:

6. *If the Board finds GMA noncompliance with any, or all, of the issues [1-5, supra], does such noncompliance substantially interfere with the fulfillment of goal 11, RCW 36.70A.020(11) and merit a determination of invalidity on either or both amendatory ordinances?* <sup>[21]</sup>

Petitioners assert that Sumner's adoption of the Plan and zoning amendments, pursuant to Ordinance Nos. 1956 and 1958, fails to comply with the goals and requirements of the Act and substantially interferes with Goal 11 (RCW 36.70A.020(11)). Petitioners consequently urge the Board to enter a determination of invalidity. PFR, at 7; Edgewood PHB, at 14; and Edgewood Reply, at 8.

### Applicable Law

RCW 36.70A.302 provides, in relevant part:

- (1) A board may determine that part or all of a comprehensive plan or development regulation are invalid if the board:
  - (a) Makes a finding of noncompliance and issues an order of remand under RCW 36.70A.300;
  - (b) Includes in the final order a determination, supported by findings of fact and conclusions of law, that the continued validity of part or parts of the plan or regulation would substantially interfere with the fulfillment of the goals of this chapter; and
  - (c) Specifies in the final order the particular part or parts of the plan or regulation that are determined to be invalid, and the reasons for their invalidity.

### Discussion and Conclusion

The Board has found that the City of Sumner's adoption of Ordinance Nos. 1956 and 1958, amending the City's GMA Comprehensive Plan and zoning designations, **complies** with the challenged SEPA, and challenged consistency and implementation requirements of the Act. Therefore, there is no basis or need to consider a determination of invalidity.

### V. ORDER

Based upon review of the Petition for Review, the briefs and exhibits submitted by the parties, having considered the arguments of the parties, and having deliberated on the matter the Board ORDERS:

The City of Sumner's adoption of Ordinance Nos. 1956 and 1958, **complies** with the provisions of the GMA and SEPA challenged by Petitioners.

So ORDERED this 18<sup>th</sup> day of January 2002.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

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Edward G. McGuire, AICP  
Board Member

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Lois H. North  
Board Member

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Joseph W. Tovar, AICP  
Board Member

Note: This order constitutes a final order as specified by RCW 36.70A.300 unless a party files a motion for reconsideration pursuant to WAC 242-02-832.

## **APPENDIX A**

### **Findings of Fact**

1. On February 19, 1991, Pierce County adopted the “North Hill Community Plan.” Edgewood Ordinance No. 96-0027. The North Hill Community Plan is a Pre-GMA Plan.
2. On November 29, 1994, pursuant to RCW 36.70A.040, Pierce County adopted its GMA Comprehensive Plan and future land use map. Pierce County Ordinance No. 94-82S. The Plan included the unincorporated portion of Pierce County that eventually became the City of Edgewood.
3. In March of 1995, the citizens of the affected area of unincorporated Pierce County voted to incorporate as the City of Edgewood.
4. The City of Edgewood was incorporated as a council-manager form of government on February 28, 1996 [or March 31, 1996]. Edgewood Comprehensive Plan, at Chapter 1, page 2, [Edgewood PHB, at 2].
5. On February 22, 1996, Edgewood adopted by reference “The North Hill Community Plan as the Interim Comprehensive Plan for the City of Edgewood.” Edgewood Ordinance No. 96-0027. This Plan was not Pierce County’s GMA Plan for the area, nor was it adopted by Edgewood as a GMA Plan. *See*: FoF 1, 2 and Edgewood Ordinance No. 96-0027.
6. Ordinance No. 96-0027 expresses the [Edgewood] community’s “desires to develop zoning and land use regulations consistent with the North Hill Community Plan.” Edgewood Ordinance No. 96-0027.
7. On April 4, 1994, the City of Sumner adopted Ordinance No. 1625, adopting its GMA Comprehensive Plan. Core Document, Sumner GMA Plan, at 5 [0604].
8. The City of Sumner amended its GMA Comprehensive Plan in 1996, 1997 and 1999. Core Document, Sumner GMA Plan, Record, at 5-6.
9. In December of 1999, the City of Sumner received a proposal requesting Plan and zoning map amendments to change the area in question from commercial and residential to Heavy Manufacturing (M-2). Index Item 2, Record, at 36.

10. In January of 2000, Sumner received a revised proposal requesting the change for the area be to Light Industrial (M-1). Index Item 2, Record, at 33-36.
11. The City of Sumner's annual (2000-2001) Plan amendment cycle commenced in June of 2000. Index Item 9, Record, at 454.
12. In November of 2000, the City of Edgewood's Planning Commission voiced its concerns regarding Sumner's proposed amendments and asked to be made a party of interest. Index Item 2, Record, at 47.
13. In December of 2000, Sumner held an informational meeting regarding Sumner's proposed amendments that included the individual Edgewood Petitioners. Index Item 5, Record, at 296-297.
14. In January 2001, the Mayor of Sumner and staff made a presentation at the regularly scheduled Edgewood City Council meeting regarding Sumner's proposed amendments. Edgewood PHB, at 5 and Sumner Response, at 3.
15. Sumner's Planning Commission met on February 15, 22, March 1 and April 5, 2001, to take testimony and deliberate on the proposed amendments. Petitioners participated in those meetings. During its deliberations the Commission considered modifying the proposal to allow General Commercial instead of Light Industrial and considered attaching a concomitant agreement limiting the permitted uses in the Light Industrial designation. Index Item 8, Record, at 319-355.
16. On February 27, 2001, the City of Edgewood passed Resolution 01-88 opposing the proposed Plan and zoning amendment and directing Edgewood staff to coordinate a joint planning effort between the Cities of Sumner and Pacific for the fiscal year beginning January 1, 2002. Index Item 8, Record, at 438.
17. The planning staffs for the Cities of Edgewood and Sumner met jointly several times during the spring of 2001. Index Item 9, Record, at 459.
18. Petitioners participated in the deliberations of the Planning Commission and City Council. Index Items 2, 5, 8, 9 and 10, Record, at 37, 46, 297, 315, 328, 460, 527 and 534.
19. On May 21, 2001, the City of Sumner adopted Ordinance No. 1956, amending its GMA Comprehensive Plan and future land use map for the subject property. Ordinance No. 1956.
20. On May 21, 2001, the City of Sumner adopted Ordinance No. 1958, amending its zoning map for the subject property. Ordinance No. 1958.
21. On June 12, 2001, the City of Edgewood adopted Ordinance No. 01-0171, adopting its GMA Comprehensive Plan, pursuant to RCW 36.70A.040. Ordinance No. 01-0171, attached to Core Document, Edgewood GMA Comprehensive Plan.
22. When Sumner adopted its GMA Comprehensive Plan in 1994 by Ordinance No. 1625, it also adopted its Draft Environmental Impact Statement and Final Environmental Impact Statement, dated December 1993. Core Document, Sumner GMA Comprehensive Plan, Record, at 605.
23. On February 1, 2001, Sumner published notice of its Adoption of Addendum to Final Environmental Impact Statement Sumner Comprehensive Plan Update, December 1993 for the 2000-2001 Comprehensive Plan Amendments. Index Item 14, Record, at 549.
24. The Addendum is dated January 18, 2001. Index Item 5, Record, at 267-292.

25. On March 28, 2001, Sumner published notice of its Adoption of a REVISED Addendum to Final Environmental Impact Statement Sumner Comprehensive Plan Update, December 1993 for the 2000-2001 Comprehensive Plan Amendments that the City adopted on February 1, 2001. The FEIS Addendum has been REVISED to reflect a change in Comprehensive Plan Amendment proposal described in (3)(1) [*i.e.* designating the area as general commercial instead of light industrial]. Index Item 8, Record, at 356.
26. The REVISED Addendum is dated March 20, 2001. Index Item 8, Record, at 357-386.
27. Both Addenda were adopted pursuant to the procedures set forth in WAC 197-11-625. Index Item 14, Record, at 549; and Index Item 8, Record, at 356.

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[1] Stowe Construction Inc. was initially named as a Respondent in the PFR. However, since the Board has no jurisdiction over non-governmental Respondents, Stowe Construction Inc. was dropped from the case caption.

[2] Petitioners moved to strike Ex. 2 attached to Sumner's Response – Declaration of John Doan. This matter is discussed under Preliminary Matters, Section III. B, *infra*.

[3] RCW 36.70A.3201 provides, in relevant part:

In recognition of the broad range of discretion that may be exercised by counties and cities consistent with the requirements of this chapter the legislature intends for the boards to grant deference to counties and cities in how they plan for growth, consistent with the requirements and goals of this chapter. . . .The legislature finds that while this chapter requires local planning to take place within a framework of state goals and requirements, the ultimate burden and responsibility for planning, harmonizing the planning goals of this chapter, and implementing a county or cities future rests with that community.

[4] The Board notes that Edgewood's Plan is not the subject of Board review in this proceeding. Further, to date, the City of Edgewood has not adopted implementing development regulations or zoning regulations to implement its new Plan. It is relying upon pre-GMA Plan zoning.

[5] This issue statement is intended to reflect issue 4.11 from the PFR, at 5.

[6] This issue statement is intended to reflect issue 4.12 from the PFR, at 6.

[7] Edgewood fails to cite any authority for this proposition.

[8] The Board notes that it is questionable whether the [Pre-GMA] North Hill Plan, a plan not adopted to comply with the goals and requirements of the GMA, would comply with the provisions of the Act.

[9] *See also* Index Item 2, Record, at 58 and 59, indicating Edgewood's desire to participate in joint planning along the West Valley Highway corridor beginning in 2002.

[10] The Board notes the importance of joint planning as expressed in the CPPs as it relates to unincorporated areas outside city limits. However, the utility of joint planning within city limits may be limited, as Edgewood acknowledges, "the Sumner City Council is the ultimate decision maker with regard to the comprehensive plan designations and zoning." Edgewood Reply, at 3.

[11] This issue statement is intended to reflect issue 4.13 from the PFR, at 6.

[12] This issue statement is intended to reflect issue 4.14, 4.14.1, 4.14.2 and 4.14.3 from the PFR, at 6-7.

[13] Similarly, RCW 36.70A.040(3)(d) provides, "each city located within the county shall adopt a comprehensive plan and development regulations that are consistent with and implement the comprehensive plan."

[14] Sumner Plan Policy 1.7 in its entirety, provides:

1.7 Coordinate with adjacent jurisdictions and Pierce County through joint planning to ensure service provision and development is consistent with the goals of this plan.

1.7.1 In accordance with the County Wide Planning Policies promote and participate in joint planning of unincorporated lands within the Sumner Urban Growth Boundary as shown in Figure 3.

1.7.2 Request *joint planning of lands immediately adjacent to the City limits and the Sumner Urban Growth Boundary* including land south of SR-410 and along SR-162. Request modifications to the Sumner Urban Growth Boundary to include land south of SR-410 to the north bank of the Puyallup River upon review of growth demands. Propose future land use as shown in Figure 3b.

Core Document, Sumner Comprehensive Plan, Record, at 624, (emphasis supplied). The Board notes that Policy 1.7.2 does not appear to pertain to the amendment area. The amendments, while within Sumner's city limits, are neither within Sumner's unincorporated UGA, nor are they near SR-410 or SR-162 [the West Valley Highway is SR-167].

[15]

Sumner Plan Policy 2.7 provides, "Work with Pierce County and other cities and towns to ensure that economic development strategies are carried out consistently." Core Document, Sumner Comprehensive Plan, Record at 628.

[16]

The Board notes that RCW 36.70A.070(preamble) requires that a jurisdiction's plan be internally consistent; and jurisdictions are obligated to amend their plans to maintain consistency. However, this criterion of Sumner's does not specifically address such internal consistency. It speaks to inconsistency between Sumner's comprehensive plan and *other* City plans and ordinances and consistency between plans of different jurisdictions. Nonetheless, it cannot preclude plan amendments that remove internal inconsistencies within a plan.

[17]

This plan policy provides, in relevant part:

2.4 Provide a highly interconnected network of streets, sidewalks, bicycle lanes and trails for ease and variety of travel.

The City of Sumner recognizes that increasing connections throughout the City not only reduces traffic congestion, but also increases the sense of community.

Core Document, Sumner Comprehensive Plan, Transportation Element, Record, at 683.

[18]

*See:* Index Item 2, Record at 21-22; citing Plan Policies 2.4, 2.7, 3.3 and 3.5 and following discussion.

[19]

This issue statement is intended to reflect issue 4.16 from the PFR, at 7.

[20]

The Board refers to the March 20, 2001 Revised Addendum, which includes the discussion of changing from residential to light industrial (from the January 18, 2001 Addendum) and changing from residential to general commercial.

[21]

This issue statement is intended to reflect issue 4.15 from the PFR, at 7.