

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

KING COUNTY,)	
)	Case No. 02-3-0011
Petitioner,)	
)	<i>(King County)</i>
v.)	
)	ORDER OF DISMISSAL
CITY OF EDMONDS,)	
)	
Respondent.)	
)	
)	

I. Background

On August 12, 2002, the Central Puget Sound Growth Management Hearings Board (the **Board**) received a Petition for Review (**PFR**) and Request for Declaratory Ruling (**RDR**) from King County (**Petitioner**).

Petitioner challenges Edmonds Ordinance No. 3402 (the **MP Designation Ordinance**), and Edmonds Ordinance No. 3411 (the **Contract Rezone Ordinance**). Ordinance No. 3402 was an amendment to the City’s Comprehensive Plan, adding new ‘MP1’ and ‘MP2’ master plan mixed use designations to the Comprehensive Plan, but it did not designate where those zones would be located or provide specific development regulations for those two designations. Ordinance No. 3402 was adopted by the City on July 2, 2002, and published on July 10, 2002.

Ordinance No. 3411 was an amendment to the City’s Community Development Code, adding a new ‘MP – Master Plan Hillside Mixed Use Zone’ to the Code and adopting development regulations implementing the MP Designation Ordinance (the **Contract Rezone Ordinance**). Ordinance No. 3411 was adopted by the City Council on July 23, 2002, and was published on July 28, 2002.

The grounds for the Petitioner’s challenge is noncompliance with RCW 36.70A, the Growth Management Act (**GMA** or the **Act**), including RCW 36.70A.035, RCW 36.70A.100, RCW 36.70A.140, RCW 36.70A.150 and RCW 36.70A.200.

On August 14, 2002, the Board received Unocal Oil Company of California's "Motion to Intervene." On August 22, 2002, the Board **granted** Unocal's Motion to Intervene.

On September 4, 2002, the Board received "Stipulation, Proposed Declaratory Order on Ripeness Issues and Dismissal" (**Stipulation**). The Stipulation was signed by all parties in this case.

On September 9, 2002, the Board held a Prehearing Conference (**PHC**) at the Financial Center in Seattle. Present for the Board were Edward G. McGuire and Lois H. North, presiding officer. Staci Smith, the Board's Legal Extern, was also in attendance. J. Tayloe Washburn and Verna Bromley represented the Petitioner. W. Scott Snyder represented the City of Edmonds. Brent Carson represented the Intervenor, Unocal Oil Company of California.

There was a discussion regarding the Stipulation. The Board continued the PHC until September 13, 2002, to allow the Board to further review and consider the Stipulation, and reconvene the PHC, if necessary. The Board **granted** the Respondent's request for an extension of one week to file the City's Index.

II. ORDER

Having reviewed the Stipulation, PFR, the GMA, prior Board Orders, and having deliberated on the matter, the Board hereby ORDERS:

1. The Board adopts by reference, the 13 facts agreed to by the parties and set forth in the attached Stipulation, at 1-5;
2. The Board concurs with, and adopts by reference, the reasoning and rationale as set forth in the attached Stipulation, at 5-7. Namely, that the appeal to this Board is not necessary at this time ^[1] because:
 - The *final* regional decision on a specific location for the "Brightwater facilities" has not been made;
 - The City of Edmond's adoption of the challenged Ordinances does not prevent King County or the City of Edmonds from pursuing future Plan or development regulation amendments to allow the siting of the "Brightwater facility" within the City of Edmonds; and
 - King County is not foreclosed from bringing a GMA challenge at a future date, relating to the location of a sewage treatment facility within the City of Edmonds.
3. PFR 02-3-0011 (*King County v. City of Edmonds, Unocal – Intervenor*) is hereby

dismissed with prejudice.

So ORDERED this 12th day of September 2002

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

Lois H. North,
Presiding Officer

Joseph W.
Tovar, AICP

Edward G.
McGuire, AICP

[\[1\]](#) Pursuant to RCW 36.70A280(1), the Board has jurisdiction “to hear and determine only those petitions alleging that . . . a city planning under this chapter is not in compliance with the requirements of this chapter.”