

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

EVERGREEN SUN ENTERPRISES INC.,)	
)	
Petitioner,)	Case No. 04-3-0016
)	
v.)	<i>(Evergreen)</i>
)	
CITY OF KIRKLAND,)	
)	ORDER OF DISMISSAL
Respondent.)	
)	
)	
)	
)	

I. BACKGROUND

On May 14, 2004 the Central Puget Sound Growth Management Hearings Board (the **Board**) received a Petition for Review (**PFR**) from Evergreen Sun Enterprises Inc. (**Petitioner** or **Evergreen**), with seven (7) exhibits attached. The matter was assigned Case No. 04-3-0016. Petitioner challenges the City of Kirkland’s (**Respondent** or the **City**) adoption of Ordinance Nos. 3932 and 3933 (the **Ordinances**) concerning City File No. IV-02-70 related to the “Totem Center Amendments (Phase II) – Design Guidelines, Zoning Map, and Zoning Code Regulations for TL 1A, TL 1B, and TL 2.” The basis for the challenge is noncompliance with the Growth Management Act (**GMA** or **Act**), the State Environmental Policy Act (**SEPA**) and RCW 82.02. Petitioner requests that the Board declare the Ordinances invalid.

On May 20, 2004 the Board received a Notice of Appearance for the City from Rod P. Kaseguma of Inslee, Best, Doezie & Ryder, P.S.

On May 20, 2004 the Board received “Stipulated Request for Settlement Extension” (**Stipulation for Settlement Extension**) requesting a 60-day extension for purposes of pursuing settlement discussions. The Stipulation for Settlement Agreement was signed by Bill H. Williamson, attorney for Petitioner and Rod P. Kaseguma, attorney for Respondent.

On May 21, 2004 the Board issued a Notice of Hearing and Order Granting Settlement Extension. The Order set a Tentative Schedule for the case.

On July 28, 2004 the Board received “Second Stipulated Request for Settlement Extension” (**Stipulation for Second Settlement Extension**).

On August 9, 2004 the Board issued its Order Granting Second Settlement Extension and Amending Case Schedule.

On November 12, 2004 the Board received a third Stipulated Request for Settlement Extension (**Stipulation for Third Settlement Extension**).

On November 12, 2004 the Board issued its Order Granting Third Settlement Extension and Amending Case Schedule.

On January 3, 2005 the Board received a letter dated December 29, 2004 from Bill H. Williamson, Attorney for Appellant, which states in part:

Please be advised that the Appellant Evergreen Sun Enterprises Inc. and the City of Kirkland have reached a final settlement agreement of all issues presently pending in the above entitled cause before the Board. This has occurred through the adoption of curative legislation, a rezone, and development agreement executed by the parties and recorded with the King County Recorder's Office.

On January 19, 2005 the Board received "Stipulation for Entry of Order of Dismissal" (**Stipulation for Order of Dismissal**) which states in part:

This stipulation is submitted following the completion of a development agreement between the parties, which addresses and concludes all matters and claims of the petitioner Evergreen Sun Enterprises Inc. as submitted in Petitioner's Appeal to the Board.

The Stipulation for Order of Dismissal is signed by Bill H. Williamson, Attorney for Petitioner and Rod P. Kaseguma, Attorney for Respondent.

II. FINDINGS

The Board's Rules of Practice and Procedure provide in part:

Any action may be dismissed by a Board: (1) When all parties stipulate; ...

WAC 242-02-720.

All parties to this case have stipulated to dismissal of the appeal.

III. ORDER

Based upon review of the Petition for Review, the filings of the parties, the Board's Rules and having deliberated on the matter, the Board ORDERS:

PFR No. 04-3-0016 is **dismissed with prejudice** and CPSGMHB Case No. 04-3-0016 is **closed**.

So ORDERED this 19th day of January, 2005.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

Bruce C. Laing, FAICP
Board Member

Edward G. McGuire, AICP
Board Member

Margaret A. Pageler
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.