

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

LORA PETSO)	
)	Case No. 09-3-0005
Petitioner,)	
)	<i>(Petso II)</i>
v.)	
)	
THE CITY OF EDMONDS,)	ORDER DENYING
)	RECONSIDERATION
Respondent)	
)	
)	
)	
)	

I. BACKGROUND

On August 17, 2009, the Board issued its Final Decision and Order in this matter. The Board remanded the City of Edmonds' Parks, Recreation and Open Space Comprehensive Plan to the City for action to comply with the GMA, as set forth in the FDO. However, as to several issues, the Board found that Petitioner had not carried her burden of proof or that the Board's case law supported the City's action.

On August 27, 2009, the Petitioner filed a timely Request for Reconsideration.

On September 2, 2009, the Board received Respondent City of Edmonds' Reply to Request for Reconsideration.

II. DISCUSSION

The Board's Rules of Procedure provide, at WAC 242-02-832, that a Motion for Reconsideration shall be based on one of the following grounds:

1. Errors of procedure or misinterpretation of fact or law
2. Irregularity in the hearing preventing a fair hearing
3. Clerical mistakes in the Final Decision and Order

With the motion presented, Ms. Petso asserts that the Board's decision makes a number of errors, most of them concerning the need for playfields:

1. Disregarding the ILA for the Sherwood Park playfields (Legal Issue 3b)
2. Allowing incorporation of the 2007-2013 Capital Improvement Plan (Legal Issue 3c and f)

3. Relying for adult playfields on a contract for shared use of the Meadowdale fields, although that contract may be unilaterally terminated by the school district on six months notice (Legal Issue 3d and 6a)
4. Admitting an identified need for adult playfields but not planning for acquisition of such fields (Legal Issue 3d, 6a, and 8)
5. Claiming financial constraints while disregarding ample cash balances in the Parks capital fund (Legal Issue 3e)
6. Failing to assess the appropriate balance of land uses involved in replacing two ball fields at Sherwood Park with 20 houses (Legal Issue 3g)
7. Relying on interlocal agreements to meet the documented need for adult playfields (Legal Issue 3d and 5)
8. Misclassifying some “beautification areas” as open space (Legal Issue 6)
9. Relying on the Old Woodway High School project to satisfy long term need for play fields, when that project is speculative and unfunded (Legal Issue 3d and 8)
10. Failing to address Legal Issue 8(a) regarding planning for and accommodating growth within the 20-year period, and failing to cite RCW 36.70A.110(2)

The City’s Reply contends that Petitioner’s allegations of error are merely re-arguments of her case, unsupported by any legal citation to indicate a misinterpretation of law.

A Motion for Reconsideration is not simply an opportunity to reargue a case. *Suquamish II v. Kitsap County*, CPSGMHB Case No. 07-3-0019c, Order on Motion for Reconsideration (Sep. 13, 2007), at 3. The fact that the Board disagreed with a petitioner’s legal analysis does not provide a basis for reconsideration. See *Bremerton II v. Kitsap County*, CPSGMHB Case No. 04-3-0009c, Order on Reconsideration (Sep. 16, 2004), at 6.

As the Board said in a previous case concerning the Sherwood Park ball fields ILA:

Petitioner’s argument for reconsideration on the law introduces no additional authorities but simply reargues the case – passionately and cogently – with Petitioner reaching a different conclusion than the Board in application of the governing statutory and case law to the facts at hand. The Board is sympathetic to the regional and local need for sports fields. However, the Board is not persuaded that it erred in its application of the law....

Petso v. Snohomish County, CPSGMHB Case No. 07-3-0006, Order on Motions for Reconsideration (May 10, 2007), at 3.

In the present matter, the Board’s Final Decision and Order involved a careful review of the facts in the record, including each of the matters reasserted by Petitioner in her Request for Reconsideration. Petitioner’s request has introduced no facts not already fully considered by the Board.

The Board's Final Decision and Order involved a thorough review of the relevant legal authorities. The Board cited and relied on more than sixty cases in reaching its decision. Petitioner has not provided any additional or opposing authority.

The Board finds no basis for revising or re-stating its decision. As to reference to RCW 36.70A.110, the Board's discussion of Legal Issue 8 (FDO, at 44-47) spoke to the specific arguments raised in Petitioner's Prehearing Brief (Petso PHB, at 25-26) and concluded that she had not met her burden of demonstrating noncompliance with RCW 36.70A.110.

III. ORDER

Having reviewed the Petitioner's Request for Reconsideration, the City's Reply, and the relevant provisions of the GMA and the Board's Rules of Practice and Procedure, the Board finds that the Petitioner has not provided a basis either in error of fact or in error of law that compels further reconsideration of the Final Decision and Order. Consequently, the Petitioner's Request for Reconsideration is **DENIED**.

So ORDERED this 4th day of September, 2009.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

David O. Earling
Board Member

Margaret A. Pageler
Board Member

Note: This order constitutes a final order as specified by RCW 36.70A.300.¹

¹ Pursuant to RCW 36.70A.300 this is a final order of the Board.

Judicial Review. Any party aggrieved by a final decision of the Board may appeal the decision to superior court as provided by RCW 36.70A.300(5). Proceedings for judicial review may be instituted by filing a petition in superior court according to the procedures specified in chapter 34.05 RCW, Part V, Judicial Review and Civil Enforcement. The petition for judicial review of this Order shall be filed with the appropriate court and served on the Board, the Office of the Attorney General, and all parties within thirty days after service of the final order, as provided in RCW 34.05.542. Service on the Board may be accomplished in person or by mail, but service on the Board means actual receipt of the document at the Board office within thirty days after service of the final order. A petition for judicial review may not be served on the Board by fax or by electronic mail.

Service. This Order was served on you the day it was deposited in the United States mail. RCW 34.05.010(19)