

State of Washington  
GROWTH MANAGEMENT HEARINGS BOARD  
FOR EASTERN WASHINGTON

CITY OF WALLA WALLA

Petitioner,

v.

WALLA WALLA COUNTY,

Respondent.

Case No. 02-1-0012

MOTIONS ORDER

I. BACKGROUND

On May 31, 2002, CITY OF WALLA WALLA, by and through its attorney, Tim Donaldson, filed a Petition for Review.

On June 27, 2002, the City of Walla Walla filed a Dispositive Motion on a Limited Record, seeking the entry of a decision and final order in this matter on a limited record pursuant to WAC 242-02-530(4).

On July 16, 2002, the Respondent, Walla Walla County, filed a Dispositive Motion re: Issue no. 8.

This Order addresses the Motions as follows:

**Issue 1:** The City of Walla Walla has requested a summary ruling from the Board that any and all development regulations in Walla Walla County Ordinance 269, the amended Walla Walla County Zoning Map, and Walla Walla County Resolution 02118, that implement policies in the Comprehensive Plan previously found to be non-compliant with the GMA are non-compliant as a matter of law. The City also requests a determination of invalidity regarding policies and regulations applicable to the Blalock Rural Transition Area.

**DISCUSSION:**

In West Seattle Defense Fund, et al. v. City of Seattle, CPSGMHB Case No. 95-3-0040, Order Denying WSDF's Dispositive Motion, WL 903141 (June 16, 1995), a case cited by the City, the CPS Board made clear that a determination of whether development regulations comply with the GMA when they implement noncompliant portions of a Comprehensive Plan must be made on a case-by-case basis at the hearing on the merits:

The Board concludes that when portions of a comprehensive plan have been remanded with instructions to bring those provisions into compliance with the Act, and when other portions of the plan have been found to comply with the Act, the Board must determine on a case-by-case basis whether the contested portions of implementing development regulations comply with the GMA. In such circumstances, **the Board will not automatically conclude that, simply because portions of a comprehensive plan do not comply with the Act, all implementing development regulations necessarily also do not comply.** (Emphasis supplied).

West Seattle Defense Fund, et al. v. City of Seattle, *supra* at p.4.

The Board finds the motion before us is similar to the case cited above. The Board concurs with CPSGMHB and finds that arguments on specific development regulations must be made on a case-by-case basis at the hearing on the merits. The Board does not have sufficient information before it to separate the compliant and non-compliant portions of these documents.

**Conclusion:**

The City's Motion for Summary Ruling is denied.

**Issue 2:** The City requests the Board take Official Notice of the on-going subdivision and reduction of lot sizes in Walla Walla County per a declaration of Linda Kastning.

**Discussion:**

These facts should be admitted pursuant to WAC 242-02-670(2) in that they are facts so generally and widely known to all properly informed persons as not to be subject to a reasonable dispute. Further, this information will be of assistance to the Board in making its decision.

**Conclusion:**

The Board grants this request.

**Issue 3:** Walla Walla County has requested dismissal of Issue No. 8, arguing that this

issue was ruled on in consolidated Cases 01-1-0015c and 01-1-0014cz. Issue No. 8 requests the Board enter a finding of invalidity regarding the portions of the County's zoning map which applies to the rural transition land use designation in the Blalock area.

**Discussion:**

Petitioners argue that subsequent events may have changed the facts surrounding the Board's earlier decision not to declare invalidity. The Board recognizes this is a possibility and will hear arguments on the question of invalidity at the hearing on the merits.

**Conclusion:**

Respondent's Motion to Dismiss Issue No. 8 is denied.

**Issue 4:** Walla Walla County requests the Board take Official Notice of (a) the Board's Final Decision and Order dated May 31, 2002, in consolidated Cases )1-1-0014cz and 01-1-0015c. (b) Walla Walla County Amended Ordinance 259 (c) Walla Walla County Ordinance 266 and (d) Walla Walla County Ordinance 269 and Resolution 02118.

**Discussion:**

The Board can properly take notice of its own orders and the Ordinances and Resolutions of the Respondent County.

**Conclusion:**

The Board grants this request.

**ORDER**

1. The City of Walla Walla's Motion for Summary ruling is denied.
2. The City of Walla Walla's request to take Official Notice of on-going development activity is granted.
3. Walla Walla County's Motion to Dismiss Issue No. 8 is denied.
4. Walla Walla County's Motion to take Official Notice of listed documents is granted.

**SO ORDERED** this 29<sup>th</sup> day of July 2002.

EASTERN WASHINGTON GROWTH MANAGEMENT  
HEARINGS BOARD

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D.E. "Skip" Chilberg, Board Member

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Dennis Dellwo, Board Member

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Judy Wall, Board Member